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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	Case No. 2:16-cr-046-GMN-PAL
Plaintiff,)	
)	Las Vegas, Nevada
vs.)	Wednesday, April 12, 2017
)	Courtroom 7C, 8:32 a.m.
ERIC PARKER, O. SCOTT)	
DREXLER, RICKY LOVELIEN,)	JURY TRIAL DAY TWENTY-EIGHT
STEVEN STEWART, TODD ENGEL)	
and GREGORY BURLESON,)	
)	
Defendants.)	
)	<u>C E R T I F I E D C O P Y</u>

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE: THE HONORABLE GLORIA M. NAVARRO,
UNITED STATES DISTRICT JUDGE, CHIEF

APPEARANCES:

See next page

COURT REPORTER:

Heather K. Newman, RPR, CRR, CCR #774
United States District Court
333 Las Vegas Boulevard South, Room 1334
Las Vegas, Nevada 89101
(702) 471-0002

Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

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13 Also present:

14 Gwen Wilson
15 Bryan Ginn
16 Christine Abbott
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1 LAS VEGAS, NEVADA; WEDNESDAY, APRIL 12, 2017; 8:32 A.M.

2 --oOo--

3 P R O C E E D I N G S

4 (Outside the presence of the jury at 8:32 a.m.):

5 COURTROOM ADMINISTRATOR: All rise.

6 THE COURT: Thank you. You may be seated.

7 COURTROOM ADMINISTRATOR: This is the time set for
8 Jury Trial Day Twenty-Eight in Case No. 2:16-cr-046-GMN-PAL,
9 United States of America vs. Eric Parker, O. Scott Drexler,
10 Ricky Lovelien, Steven Stewart, Todd Engel, and
11 Gregory Burleson.

12 Counsel, please make your appearances for the record.

13 MS. CREEGAN: Erin Creegan, Steve Myhre, Nadia Ahmed,
14 and Nick Dickinson for the United States. Steven Myhre will be
15 here very shortly.

16 THE COURT: All right. Good morning.

17 MR. TANASI: Good morning, Your Honor.

18 Rich Tanasi for Steven Stewart. Also present with us
19 is Gwen Wilson and Bryan Ginn.

20 I think Mr. Leventhal and Mr. Myhre are just kind of
21 talking about some closing PowerPoint issues.

22 THE COURT: They're coming in right now.

23 MR. TANASI: Perfect.

24 MR. MARCHESE: Jess Marchese on behalf of
25 Eric Parker.

1 MR. LEVENTHAL: Good morning.

2 Todd Leventhal on behalf of Mr. Drexler.

3 MR. GEORGE: Good morning.

4 John George on behalf of Todd Engel.

5 MR. PEREZ: Good morning, Your Honor.

6 Shawn Perez on behalf of Ricky Lovelien.

7 MR. JACKSON: Terrence Jackson for Gregory Burleson.

8 Also with me is Christine Abbott.

9 THE COURT: Good morning.

10 All right. So, before we begin, I need to make the
11 preliminary remarks, as I have been every day, but while there
12 are mostly familiar faces here, every once in a while there are
13 folks coming in for the first time. So it's important to
14 remind everyone that this is a courtroom and it is not a
15 sporting event so it is never appropriate to make -- well, I
16 think there's actually more -- yes. Yes, that's fine.

17 Okay. We're going to go ahead and let another . . .

18 (Brief pause in proceedings.)

19 THE COURT: All right. It looks like we're ready to
20 begin. Everybody's in the courtroom.

21 Before we bring if the jury, I need to make some
22 preliminary remarks to set clear the expectations about how
23 court will be conducted today, as it has been conducted every
24 day.

25 Please remember that this is a courtroom; it is not a

1 sporting event, which means it is never appropriate to make any
2 expression about your opinion, whether verbal or through body
3 language, no matter how much you may agree or disagree with
4 what is being said. The marshals are authorized to remove
5 anyone that is seen making any kind of body expression or vocal
6 expression. These distractions are not permitted in federal
7 court.

8 In addition, people may not speak out of turn. The
9 defendants are represented by attorneys and they all have
10 microphones and they will be called on, in order. If anyone
11 makes an outburst, that being either an attorney or a defendant
12 or anyone in the public, that person will be removed from the
13 courtroom.

14 We do have a holding cell right next door with a
15 speaker system. So if any of the defendants need to be
16 removed, they will stay for the remainder of the day in that
17 room and can still hear the proceedings contemporaneously as
18 they're occurring. However, they will not be permitted to stay
19 in the courtroom if they cannot control their body language and
20 their vocal language.

21 I also ask you to please make sure and double-check
22 that you do not have any electronic devices, no cell phones, no
23 laptops, no iPad devices or any of those things are permitted.
24 Even if they're in a turned-off mode, private mode, vibrate
25 mode, they're still not permitted. The attorneys and some of

1 the defendants do have electronic devices, but that is so that
2 they may be able to review the discovery, the presentation of
3 evidence, and to be able to provide evidence here in court for
4 the jury to see.

5 No one is allowed to make any audio or video
6 recordings of the proceedings, as audio and video recordings
7 are never permitted in federal court.

8 And all of the tables are equipped with microphones.
9 So counsel, you may stay at your table if you wish to, but we
10 do have the podium set up next to the computer and also the
11 other system so that you may display during your closing
12 arguments while you're at the podium.

13 And Mr. Engel will be permitted to represent himself
14 in closing argument, as I already noticed you on Monday. There
15 are certain things that you can and cannot say during argument.
16 It's not a free-for-all and I did also encourage you to write
17 it down just in case there were objections that were made that
18 legally must be sustained and you are not able to say things
19 that you had planned to say and can't figure out a way to
20 rephrase it so that it would be appropriate; if you get stuck,
21 we will have Mr. John George here to read it for you and since
22 he is an experienced attorney, he'll be able to turn the phrase
23 around to make it more accommodating so that it's legally
24 appropriate to make the argument that you want to make,
25 assuming that it's a legal argument.

1 All right. So we're going to go ahead and bring in
2 the jury unless anybody has any questions.

3 Yes.

4 MR. MYHRE: Good morning, Your Honor.

5 We do have some objections to some of the defense's
6 proposed exhibits that they intend to use and PowerPoints and
7 so forth. We can take that up after the Government's opening,
8 no need to take it up now, but we just wanted to give notice to
9 the Court we do have objections.

10 THE COURT: Okay. So they're not things that have
11 been admitted already in court; they're something else?

12 MR. MYHRE: Yes. Yes, Your Honor. And -- or things
13 that have been admitted, but for a particular purpose that they
14 now wish to use for another purpose and so those are the issues
15 that we have.

16 THE COURT: All right. Well, there are defenses that
17 the Court has determined the law does not permit to be made.
18 They're not defenses to this -- in this particular case. If
19 the law does not permit a particular defense, then that means
20 that attorneys are not permitted to argue to the jury those
21 defenses. The jury has taken an oath to follow the law. And
22 so the attorneys are not permitted to argue to the jury that
23 they are to ignore the law.

24 MR. LEVENTHAL: That's -- I apologize. That's not
25 what I think Mr. Myhre is speaking to. There's -- I have a

1 video that shows the arrest of David Bundy that came in through
2 one of the -- and I don't believe -- who was that?
3 Agent Stover? Stover? And then there's the Margaret Houston,
4 when she was taken down, that came in through -- I think it
5 came in twice actually as I think about it, but a portion of it
6 came in through Stover, with the dog, and the biting and I know
7 if you remember, Jess actually was asking questions about
8 whether the dog bit first or whether -- and so there was that,
9 and then there's -- but then last week we got, through
10 Mr. Parker, we got in the beginning of that tape when -- if the
11 Court remembers, and so that's all come in, as evidence. Now,
12 that doesn't go to a defense; it just -- and my client's on
13 Long Bow saying he came down here because he saw an overreach
14 of the federal government and I'm permitted, in closing, to
15 help the jury interpret what that meant and those are the three
16 things that he was referring to that he -- he -- he meant by
17 the overreach of the federal government.

18 So, I would tender that that evidence or that -- in
19 my closing, I should be able to talk about it and then play
20 that video that I've already played for Mr. Myhre, but in
21 the -- secondly, in the Margaret Houston takedown video, it's a
22 longer video and I checked with Aaron, your clerk, and he
23 indicated that the whole thing came in. Now, there's things in
24 there that I would agree that I'm not playing. For example,
25 the dead cows and all of the other stuff, I have left that out,

1 but there is -- there is -- it is in evidence and there's one
2 little portion after Mr. Marchese turned it off, it did come
3 in, and it's an interview that I've showed Mr. Myhre. So it's
4 in part of my closing as a video and it's just those three
5 things.

6 And . . . it's an interpretation. It's closing.
7 It's not evidence. It's not argument, and I don't see any
8 reason why I can't bring that video in for my client as an
9 interpretation of what he meant by the overreach of the federal
10 government. It doesn't go to a wrong defense in any way; it
11 interprets what he's saying on Long Bow. That's all it is.

12 THE COURT: Well, it's not enough that it be
13 evidence; it also has to be facts that are in evidence. So if
14 it's connected to the statement he made on the Long Bow video,
15 if that inference can be made, then that could be a fact that's
16 evidence that could be argued, but I don't -- was there a
17 different statement? A different video? You said a different
18 interview that we didn't see of Mr. Drexler?

19 MR. LEVENTHAL: No. I apologize. There's -- and I
20 don't know the number, but it came in -- Mr. Marchese got it in
21 through Mr. Parker and the whole thing came, in according to
22 your clerk. It came in because that's what he saw before he
23 came down. But Mr. Marchese only played a portion of it, but
24 the whole thing came in as evidence. And so, I've played just
25 a piece of --

1 THE COURT: All right. So has there been evidence
2 that Mr. Drexler saw that video?

3 MR. LEVENTHAL: Well --

4 THE COURT: Because Mr. Parker testified he saw that
5 video, so it goes to his mens rea.

6 MR. LEVENTHAL: Right. And so -- well, and I
7 would -- I would, again, argue that the overreach of the
8 federal government, he said he did research, a couple days. On
9 his Long Bow he said Eric Parker called me, I did my research,
10 and he watched those things and he saw an overreach of the --
11 what he thought was an overreach of the federal government.
12 And I think this is closing and I should be able to argue what
13 that -- what his state of mind was and what his intent was and
14 what the overreach of the federal government means. I mean,
15 it's closing. It's like opening. It's argument. It's not --
16 it's not facts. It's all come in. It's all evidence. It's
17 come in for different reasons. It's come in because of an
18 investigator or Agent Stover.

19 THE COURT: But there's no fact in evidence that
20 Mr. Drexler saw that particular video. So you can't argue that
21 he saw the video; right? Is that the problem?

22 MR. LEVENTHAL: Well --

23 MR. MYHRE: Yes --

24 MR. LEVENTHAL: Oh, sorry.

25 MR. MYHRE: In part, yes, Your Honor.

1 MR. LEVENTHAL: Other than -- other than -- but then
2 the Court's precluding me to -- to -- this is closing and it's
3 an interpretation of what that meant by an overreach of the
4 federal government. That's clearly in his Long Bow. And in
5 closing I should be able to explain what it is that he meant by
6 saying that. Not only that, this is a conspiracy case where
7 everybody's -- everybody's here because of somebody else's
8 thoughts, feelings, what they said, but what goes -- what was
9 in his state of mind when he was interviewed in Long Bow, is,
10 it's an overreach of the federal government. Well, if I can't
11 explain that in closing, then -- I mean, I -- it's not a
12 defense for him, it's just an explanation, in closing argument,
13 as to what he meant by an overreach, and it's those three
14 things.

15 THE COURT: Mr. Myhre?

16 MR. MYHRE: Yes, Your Honor.

17 As we -- as the Court knows, we've had a lot of
18 litigation about this on the 6th and the 9th and there is no
19 evidence to show that Mr. Drexler saw that video or the
20 portions of the video that counsel wishes to play. So
21 therefore, as to his state of mind, it's irrelevant.

22 There are also portions of that interview that --
23 or -- excuse me -- of that video that Mr. Drexler -- excuse
24 me -- Mr. Parker did not attest to on the stand as having seen.
25 Mr. Marchese played portions of it, which he said he saw, but

1 then, you know, Mr. Leventhal's now saying, well, the entire
2 thing has come in and the entire portion of it is, you know,
3 available for everybody to argue. There is no evidence that
4 Mr. Drexler saw it. There is no evidence that this is what was
5 meant by federal overreach. So, therefore, as to Mr. Drexler,
6 we believe there -- they would be arguing facts not in evidence
7 to say that this video is somehow relevant to them.

8 MR. LEVENTHAL: Your Honor, that's like saying that
9 because my client wasn't in the -- in the -- in the BLM vehicle
10 when the dash cam was rolling and he didn't actually hear what
11 was said, I can't argue that in closing. Well, I plan on
12 arguing that in closing, what was played in that vehicle, what
13 was being said on the BLM side. There's a lot of it -- or the
14 prayer group. He wasn't at the prayer group either. Can I --
15 am I precluded from showing that or arguing that this is
16 what -- what was occurring during this time? This is closing
17 argument. We're -- we're not talking about what I'm doing in
18 evidence and in a case-in-chief.

19 THE COURT: But if you're introducing it for what was
20 occurring, and there's evidence that it occurred, then that's
21 appropriate. If you're introducing it as evidence of what the
22 defendant, your client, saw, and his motivation, but there is
23 no evidence of that, then that's why it's not appropriate.
24 It's not facts in evidence --

25 MR. LEVENTHAL: And it's couched --

1 THE COURT: -- for that purpose.

2 MR. LEVENTHAL: And I understand that, but it's
3 couched in -- we've heard a lot of discussion about how these
4 things went viral and, you know, one of the things I'm going to
5 ask the jurors, why -- why do you think so many people are
6 coming down here, including my client? Why? I mean, they're
7 not going down there because BLM was, you know, petting
8 kittens. I mean, it has to be put into perspective and I'm
9 allowed to argue that.

10 A lot of people saw it and a lot of people went to
11 Bunkerville on April 12th because they saw those videos,
12 including my client, and when he says the -- you know, just
13 because he didn't get specific in Long Bow -- he says the
14 overreach -- I should be allowed to, again, analyze and play
15 that for the jury as to why he, or anyone else for that matter,
16 what they saw, why -- it went viral. We all know that. And
17 it's just those three little clips.

18 And I understand what the Court's saying, but he
19 wasn't in the prayer group. He wasn't at a lot of different
20 things that I plan on using in closing. This is closing
21 argument. I'm not -- I'm not, you know, asking to bring up any
22 crazy defenses that the Court's indicated I'm not allowed. I'm
23 not going to do that. That's not what we're talking about
24 here, but it's closing. It's just like when we're talking
25 about opening arguments and, you know, we lay out our case.

1 Well, you know, this is closing and we can interpret facts
2 that's in evidence, whether or not it's -- he said
3 specifically --

4 THE COURT: You can interpret the facts that are in
5 evidence that have been provided for that particular purpose.
6 So, you haven't given me any legal basis for why evidence
7 that's been admitted through a different witness, in this case
8 a defendant, who said that he saw the video, how you could
9 argue that your client saw that video, too. There's no
10 evidence of the fact that your client saw that video. It's --
11 it's facts that are not in evidence so you can't argue that he
12 saw this video and that's why he came.

13 MR. LEVENTHAL: Well, I -- I would just say that the
14 Court allowed this --

15 THE COURT: I've made my ruling. I've let you argue
16 quite a bit.

17 UNIDENTIFIED GALLERY MEMBER: Treason! Treason!

18 MR. LEVENTHAL: The Court -- the Court --

19 THE COURT: Mr. Leventhal, I've made my ruling.

20 MR. LEVENTHAL: I appreciate that. I understand.

21 So -- so -- and I'm going to be clear. So, I'm not
22 going to play it, but then Mr. Marchese can play it as long
23 as -- I'll just give it to Mr. Marchese to play.

24 THE COURT: All right.

25 MR. JACKSON: Your Honor, could I just say a word?

1 THE COURT: Just a minute. Mr. Tanasi is standing up
2 first, so let's try to go in order.

3 MR. TANASI: Sorry, Mr. Jackson.

4 Your Honor, I think Mr. Myhre's issue with my closing
5 is a little bit different but maybe somehow related. I have
6 one slide that I intended to offer four different kind of
7 historical quotes, and I understand the quotes are not in
8 evidence. I -- I -- I'm not at all advocating that. However,
9 for purposes of kind of giving context to my client's state of
10 mind, that's why I'm offering those -- those quotes, those
11 historical quotes. Again, it's interpreting the evidence in
12 the case, which there's plenty of Facebook evidence in the case
13 from what my client said, "Heading to Nevada to stand up
14 against a corrupt government." You know, that all is in
15 evidence. And so, my purpose in giving these historical quotes
16 and context is to kind of show that's not a new idea. It's not
17 a crazy idea. His state of mind is not something that's
18 unreasonable. And again, I think that that is entirely for the
19 jury to decide based on all the evidence in the case, the
20 direct evidence and the circumstantial evidence and
21 circumstantial evidence ultimately has kind of a reasonableness
22 component as well. So, the jury is deciding what to believe,
23 what not to believe. I'm providing context with these
24 historical quotes to show that his state of mind, his reasons
25 for going to Bunkerville are not these crazy ideas to stand up

1 against the government and that, in fact, folks all throughout
2 history have done the exact same thing.

3 THE COURT: So are these quotes that were in his
4 Facebook page or texts or e-mails or something?

5 MR. TANASI: They are not, Your Honor. They were not
6 in his Facebook page. These are just other historical quotes
7 that I've -- would like to present to the jury. And I don't
8 think there's any dispute over the accuracy of the quotes. I
9 think the issue is just the quotes themselves, Your Honor. So
10 it's just to provide kind of a context for my argument, which
11 is that my client came to Bunkerville for the First and the
12 Second Amendment and protest is not a new concept in America.

13 THE COURT: So you're going to argue that these --
14 that this relates to his state of mind, but is there any
15 evidence that that relates to his state of mind?

16 MR. TANASI: Evidence in that the quotes are similar.
17 Again, from a circumstantial component, Your Honor. There's no
18 direct evidence. There's nothing that my client --

19 THE COURT: Similar to what? Similar to something
20 that is in evidence?

21 MR. TANASI: His quotes. That's essentially my
22 argument. "Heading to Nevada to stand up against a corrupt
23 government." "United we stand. No more government bullying."
24 Those kind of big picture quotes, those kind of big emotional
25 quotes are exactly what this case is about for Mr. Stewart.

1 And so --

2 THE COURT: If that's what he said on his -- there's
3 evidence that he made those statements?

4 MR. TANASI: Correct. There's Facebook evidence --
5 his -- those -- what I just reiterated, those are two quotes
6 from Steven Stewart.

7 THE COURT: All right. And then you're going to
8 rephrase them in your closing? Is that --

9 MR. TANASI: No. What I'd be providing is a quote
10 from Alexander Hamilton, a quote from Benjamin Franklin, a
11 quote from Susan B. Anthony, a quote from a fired up Baltimore
12 crowd about the death of Freddie Gray, right? And so, just to
13 show -- just to kind of lay the foundation that this notion of
14 protest is not a new notion and it's a notion that folks from
15 the beginning of our country, you know, have -- have advanced.
16 And again, that's the theory that's the -- essentially the
17 defense theory in the case, First and Second Amendment protest.

18 THE COURT: All right. But there's no evidence that
19 he's familiar with those quotes or that that was his intent, so
20 I think you need to be careful in the phrasing of how you use
21 them. For reasonable doubt, you could argue this is the kind
22 of case that it is and this is why --

23 MR. TANASI: I --

24 THE COURT: -- there is reasonable doubt to believe
25 that the things occurred the way that the government is

1 arguing, but I don't think that you can say that this is why he
2 came, or this is what he was thinking, or this was the thought
3 that was going through his mind, because there's no evidence of
4 that.

5 MR. TANASI: Completely fair. I would not make that
6 direct connection, Your Honor, then.

7 THE COURT: Mr. Myhre?

8 MR. MYHRE: Yes, Your Honor.

9 Let me just read the quotes for you. So one is, "We
10 must all hang together or surely we all hang separately,"
11 Benjamin Franklin.

12 "I declare to you that woman must not depend upon the
13 protection of man but must be taught to protect herself and
14 there I take my stand," Susan B. Anthony.

15 And then, "No justice. No peace. No racist police,"
16 Baltimore crowd protesting the death of Freddie Gray.

17 It's not just the quotes in and of themselves, which
18 we believe are not relevant nor do they reflect the state of
19 mind -- there's no evidence that these reflect the state of
20 mind of Mr. Stewart, but they're also attempting -- this would
21 basically bring jury nullification arguments to the jury
22 because the implicit argument here is we can analogize these
23 events to the Founding Fathers and the revolutionary war,
24 Ben -- a la Ben Franklin, or we can analogize this to someone
25 standing up for social justice, like Susan B. Anthony, or we

1 can analogize this to people standing against racist police.
2 And this is -- there's no evidence of police misconduct in this
3 case. There's no evidence of any racism. There's no evidence
4 that this is, you know, some sort of just cause, if you will,
5 for any of this. And we believe these are improper analogies
6 and we cannot make improper analogies during closing argument.
7 And again, I go back to the fact that none of this is reflected
8 in Mr. Stewart's Facebook postings. None of this is reflected
9 in any of the evidence that has been brought to the -- or has
10 been admitted to this jury.

11 THE COURT: Well, as I said before, you can't argue
12 something that is a defense that the law does not recognize in
13 this case. So if that's the purpose for using the quotes, then
14 that would not be an appropriate purpose.

15 MR. TANASI: Your Honor, the purpose is not to argue
16 that those quotes are why my client is not guilty. That's
17 not -- that's not the purpose. The purpose is to just provide
18 context to my client's state of mind. In other words, his
19 direct quotes from Facebook, "United we stand. No more
20 government bullying." His other quote, "Headed to Nevada to
21 stand up against a corrupt government." Those types of quotes,
22 the Government surely is going to be arguing, is what proves up
23 a conspiracy, is what proves up my client's nefarious ill will
24 when he's heading to Bunkerville.

25 The other quotes that Mr. Myhre's gone through that I

1 intend to read to the jury is to provide context that folks --
2 people who don't have ill will in their mind or in their heart,
3 folks like Benjamin Franklin, right, they make those kind of
4 quotes and it's a concept that is completely, completely
5 legitimate. And -- and again, I'm not going to make the
6 argument that my client is Benjamin Franklin, right, but it's
7 just the notion that standing up against government bullying,
8 standing up against police, that's not anything that is new.
9 It's not new to this case; it's part of history.

10 MR. MYHRE: Standing up against police, when
11 executing their lawful duties, is not lawful conduct.

12 MR. TANASI: Your Honor, Mr. Myhre is going to do a
13 fantastic job in his rebuttal, I am confident of that, by
14 fleshing out that argument and by making that argument. But to
15 keep me from providing context, I think that -- I think that
16 goes a little bit too far.

17 THE COURT: It sounds like you're arguing that
18 revolution and overthrow of the government is legal and
19 should -- and that a person cannot be found not guilty of doing
20 such. It's exactly the -- the defense that the law does not
21 permit in this case, so . . . You know, you'll have some time
22 to think about it and see if you can come up with a different
23 reason how it could be applicable in some other way, but at
24 this stage I haven't -- I don't see how it's permissible.

25 MR. TANASI: Understood.

1 THE COURT: I agree with Mr. Myhre that maybe we
2 should just take up the rest of it at lunch so we can just get
3 started because this jury has been here for a while waiting.
4 So let's go ahead and bring in the jury, let the Government
5 argue, and then we'll address any other matters.

6 (Brief pause in proceedings.)

7 COURTROOM ADMINISTRATOR: All rise.

8 (Jury returned to courtroom at 9:14 a.m.)

9 THE COURT: All right. Everyone may be seated.
10 We welcome back the jury.

11 When we recessed on Monday, we had heard the
12 conclusion of the testimony from one of the defense witnesses.
13 So, on the record, I just want to make sure that I'm clear.
14 Are there any other defendants that would like to call a
15 witness?

16 MR. TANASI: No, Your Honor.

17 THE COURT: All right. And does the Government have
18 any rebuttal witnesses?

19 MR. MYHRE: No rebuttal, Your Honor.

20 THE COURT: All right.

21 So now we're going to begin with the jury
22 instructions. I'm going to provide those to you. Then after
23 that, you're going to hear the closing arguments, beginning
24 first with the Government's summation and then each of the
25 defendants will have a right to make a closing argument and

1 then because the Government bears the burden in the case, they
2 have a right to also make a rebuttal argument at the end.
3 After that, you will begin your deliberation process and we'll
4 excuse you to begin that.

5 We might be done today; we might not be done until
6 tomorrow. So we'll -- thank you.

7 Let me make sure you all can see that.

8 Please raise your hand if any of your monitors aren't
9 working.

10 (No hands raised.)

11 All right. It looks like all the monitors are
12 working.

13 During this -- I'm going to be reading them to you,
14 but I also like to visually display them because some people I
15 think find it easier to read along instead of just listening.
16 You will also have a copy of these jury instructions with you
17 in the jury room.

18 If, at any time, while I'm reading these, you can't
19 see, raise your hand and someone will get my attention and let
20 me know.

21 All right. So these are the jury instructions for
22 United States vs. Eric Parker, O. Scott Drexler,
23 Ricky Lovelien, Steven Stewart, Todd Engel, and
24 Gregory Burleson.

25 There will be an index at the beginning of the jury

1 instructions so that you can more easily find what you're
2 looking for. And I think I'll turn it this way to make it
3 easier for you to see.

4 "Instruction No. 1.

5 "Duties of Jury to Find Facts and Follow Law.

6 "Members of the jury, now that you have heard all the
7 evidence, it is my duty to instruct you on the law that applies
8 to this case. A copy of these instructions will be available
9 in the jury room for you to consult.

10 "It is your duty to weigh and to evaluate all the
11 evidence received in the case and, in that process, to decide
12 the facts. It is also your duty to apply the law as I give it
13 to you to the facts as you find them, whether you agree with
14 the law or not. You must decide the case solely on the
15 evidence and the law and must not be influenced by any personal
16 likes or dislikes, opinions, prejudices, or sympathy. You will
17 recall that you took an oath promising to do so at the
18 beginning of the case.

19 "You must follow all these instructions and not
20 single out some and ignore others; they are all important.
21 Please do not read into these instructions or into anything
22 that I may have said or done any suggestion as to what your
23 verdict you should be. That is a matter entirely up to you.

24 "Instruction No. 2.

25 "Charge Against Defendant Not Evidence.

1 "Presumption of Innocence-Burden of Proof.

2 "The Superseding Indictment is not evidence. The
3 defendants have pleaded not guilty to the charges. The
4 defendants are presumed to be innocent unless and until the
5 Government proves the defendants guilty beyond a reasonable
6 doubt. In addition, the defendants do not have to testify or
7 present any evidence to prove innocence. The Government has
8 the burden of proving every element of the charges beyond a
9 reasonable doubt.

10 "Instruction No. 3.

11 "Reasonable Doubt-Defined.

12 "Proof beyond a reasonable doubt is proof that leaves
13 you firmly convinced that the defendant is guilty. It is not
14 required that the Government prove guilt beyond all
15 reasonable -- possible doubt.

16 "A reasonable doubt is a doubt based on reason and
17 common sense and is not based purely on speculation. It may
18 arise from a careful and impartial consideration of all the
19 evidence, or from lack of evidence.

20 "If after a careful and impartial consideration of
21 all the evidence, you are not convinced beyond a reasonable
22 doubt that the defendant is guilty, it is your duty to find the
23 defendant not guilty. On the other hand, if after a careful
24 and impartial consideration of all the evidence, you are
25 convinced beyond a reasonable doubt that the defendant is

1 guilty, it is your duty to find the defendant guilty.

2 "Instruction No. 4.

3 "Separate Consideration for Each Defendant.

4 "Although the defendants are being tried together,
5 you must give separate consideration for to each defendant. In
6 doing so, you must determine which evidence in the case applies
7 to each defendant, disregarding any evidence admitted solely
8 against some other defendants. The fact that you may find one
9 of the defendants guilty or not guilty should not control your
10 verdict as to any other defendants.

11 "Instruction No. 5.

12 "Separate Consideration of Multiple Counts.

13 "Multiple Defendants.

14 "A separate crime is charged against one or more of
15 the defendants in each count. The charges have been joined for
16 trial. You must decide the case of each defendant on each
17 crime charged against that defendant separately. Your verdict
18 on any count as to any defendant should not control your
19 verdict on any other count or as to any other defendant.

20 "Instruction No. 6.

21 "On or About Explained.

22 "The Superseding Indictment charges that the offenses
23 alleged were committed on or about certain dates.

24 "Although it is necessary for the Government to prove
25 beyond a reasonable doubt that the offenses were committed on a

1 date reasonably near the dates alleged in the Superseding
2 Indictment, it is not necessary for the Government to prove the
3 offenses were committed precisely on the dates charged.

4 "Instruction No. 7.

5 "Count One-Conspiracy to Commit an Offense-Elements.

6 "The defendants are charged in Count One of the
7 Superseding Indictment with conspiring to commit an offense
8 against the United States, in violation of Section 372 of Title
9 18 of United States Code. In order for a defendant to be found
10 guilty of that charge, the Government must prove each of the
11 following elements beyond a reasonable doubt:

12 "First, beginning on or about March 28th of 2014, and
13 ending on or about March 2nd, 2016, there was an agreement
14 between two or more persons to commit at least one of the
15 following crimes charged in the Superseding Indictment:

16 "Number 1. Assault on a federal officer, in
17 violation of Title 18, United States Code, Section 111(a)(1)
18 and (b);

19 "Number 2. Threatening a federal law enforcement
20 officer, in violation of Title 18, United States Code, Section
21 115(a)(1)(B);

22 "Number 3. Use and carry of a firearm in relation to
23 a crime of violence, in violation of Title 18, United States
24 Code, Section 924(c);

25 "Number 4. Obstruction of the due administration of

1 justice, in violation of Title 18, United States Code, Section
2 1503;

3 "Number 5. Interference with interstate commerce by
4 extortion, in violation of Title 18, United States Code,
5 Section 1951; or

6 "Number 6. Interstate travel in aid of extortion, in
7 violation of Title 18, United States Code, Section 1952.

8 "Second, the Government must also prove that the
9 defendant became a member of the conspiracy knowing of at least
10 one of its objects and intending to help accomplish it; and

11 "Third, one of the members of the conspiracy
12 performed at least one overt act for the purpose of carrying
13 out the conspiracy.

14 "A conspiracy is a kind of criminal partnership - an
15 agreement of two or more persons to commit one or more crimes.
16 The crime of conspiracy is the agreement to do something
17 lawful; it does not matter whether the crime agreed upon was
18 committed.

19 "For a conspiracy to have existed, it is not
20 necessary that the conspirators made a formal agreement or that
21 they agreed on every detail of the conspiracy. It is not
22 enough, however, that they simply met, discussed matters of
23 common interest, acted in similar ways, or perhaps helped one
24 another. You must find that there was a plan to commit at
25 least one of the crimes as I just listed as an object of the

1 conspiracy, with all of you agreeing as to the particular crime
2 which the conspirators agreed to commit.

3 "One becomes a member of a conspiracy by willfully
4 participating in the unlawful plan with the intent to advance
5 or further some object or purpose of the conspiracy, even
6 though the person does not have full knowledge of all the
7 details of the conspiracy. Furthermore, one who willfully
8 joins an existing conspiracy is as responsible for it as the
9 originators. On the other hand, one who has no knowledge of a
10 conspiracy, but happens to act in a way which furthers some
11 object or purpose of the conspiracy, does not then become a
12 conspirator. Similarly, a person does not become a conspirator
13 merely by associating with one or more persons who are
14 conspirators, nor merely by knowing that a conspiracy exists.

15 "An overt act does not itself have to be unlawful. A
16 lawful act may be an element of a conspiracy if it is done for
17 the purpose of carrying out the conspiracy. The Government is
18 not required to prove that the defendant personally did one of
19 the overt acts.

20 "Count Two" -- "Instruction No. 8.

21 "Count Two - Conspiracy to Impede or Injure a Federal
22 Officer-Elements.

23 "The defendants are charged in Count Two of the
24 Superseding Indictment with conspiracy to prevent by force,
25 intimidation, or threats of violence, federal law enforcement

1 officers from discharging the duties of their office under the
2 United States, and to induce by force, intimidation, and
3 threats, federal law enforcement officers to leave the place
4 where their duties were required to be performed, in violation
5 of Section 372 of Title 18 of the United States Code. In order
6 for the defendants to be found guilty of that charge, the
7 Government must proven each of the following elements beyond a
8 reasonable doubt:

9 "First, beginning on or about March 28th, 2014, and
10 ending on or about March 2nd, of 2016, there was an agreement
11 between two or more persons to do one of the following:

12 "Number 1. To prevent, by force, intimidation, or
13 threats, federal law enforcement officers from discharging the
14 duties of their office under the United States; or

15 "2. To induce, by force, intimidation, or threats,
16 any federal law enforcement officer of the United States to
17 leave the place where their duties were required to be
18 performed; and

19 "Second, that the defendant became a member of the
20 conspiracy knowing of at least one of its objects and intending
21 to help accomplish it.

22 "Instruction No. 8.1.

23 "Unlike Count One, the Government does not have to
24 prove that one of the members of the conspiracy performed at
25 least one overt act for the purpose of carrying out this

1 conspiracy.

2 "For a conspiracy to have existed, like in Count One,
3 it is not necessary that the conspirators made a formal
4 agreement or that they agreed on every detail of the
5 conspiracy. It is not enough, however, that they simply met,
6 discussed matters of common interest, acted in similar ways, or
7 perhaps helped one another. You must find that there was a
8 plan to commit at least one of the alleged objects of the
9 conspiracy, with all of you agreeing as to the particular
10 object which the conspirators agreed to commit.

11 "One becomes a member of a conspiracy by willfully
12 participating in the unlawful plan with the intent to advance
13 or further some object or purpose of the conspiracy, even
14 though the person does not have full knowledge of all the
15 details of the conspiracy. Furthermore, one who willfully
16 joins an existing conspiracy is as responsible for it as the
17 originators. On the other hand, one who has no knowledge of a
18 conspiracy, but happens to act in a way which furthers some
19 object or purpose of the conspiracy, does not thereby become a
20 conspirator. Similarly, a person does not become a conspirator
21 merely by associating with one or more persons who are
22 conspirators, nor merely by knowing that a conspiracy exists.

23 "Instruction No. 9.

24 "Conspiracy-Knowledge of and Association with other
25 Conspirators.

1 "A conspiracy may continue for a long period of time
2 and may include the performance of many transactions. It is
3 not necessary that all members of the conspiracy join it at the
4 same time, and one may become a member of a conspiracy with
5 full knowledge of all the details of the unlawful scheme or the
6 names, identities, or locations of all the other members."

7 I'm sorry. I misread that. It is, "and one may
8 become a member of a conspiracy without full knowledge of all
9 the details of the unlawful scheme or the names, identities, or
10 locations of all the other members."

11 "Even though a defendant did not directly conspire
12 with other conspirators in the overall scheme, the defendant
13 has, in effect, agreed to participate in the conspiracy if the
14 Government proves each of the following beyond a reasonable
15 doubt that:

16 "Number 1. The defendant directly conspired with one
17 or more of the conspirators to carry out at least one of the
18 objects of the conspiracy;

19 "Number 2. Defendant knew or had reason to know that
20 other conspirators were involved with those with whom the
21 defendant directly conspired; and

22 "Number 3. The defendant had reason to believe that
23 whatever benefits the defendant might get from the conspiracy
24 were probably dependent upon the success of the entire venture.

25 "It is not a defense that a person's participation in

1 a conspiracy was minor or for a short period of time.

2 "Instruction No. 10.

3 "Knowingly-Defined.

4 "An act is done knowingly if the defendant is aware
5 of the act and does not act through ignorance, mistake, or
6 accident. The Government is not required to prove that any one
7 of the defendants knew that his acts or omissions were
8 unlawful. You may consider evidence of a defendant's word,
9 acts, or omissions, along with all the other evidence, in
10 deciding whether each defendant acted knowingly.

11 "Instruction No. 11.

12 "Proof of Intent or Knowledge.

13 "The intent of a person, or the knowledge that a
14 person possesses at any given time, may not ordinarily be
15 proved directly because there's no way of directly scrutinizing
16 the workings of the human mind. In determining the issue of
17 what a person knew or what a person intended at a particular
18 time, you may consider any statements made or acts by that
19 person and all other facts and circumstances received in
20 evidence which may aid in the determination of that person's
21 knowledge or intent.

22 "You may infer, but you are certainly not required to
23 infer, that a person intends the natural and probable
24 consequences of acts knowingly done or knowingly omitted. It
25 is entirely up to you, however, to decide what facts to find

1 from the evidence received during this trial.

2 "Instruction No. 12.

3 "Mere Presence.

4 "Mere presence at the scene of a crime or mere
5 knowledge that a crime is being committed is not sufficient to
6 establish that the defendant committed the crime of conspiracy.
7 The defendant must be a participant and not merely a knowing
8 spectator. The defendant's presence may be considered by the
9 jury along with the other evidence in the case.

10 "Instruction No. 13.

11 "Count Five-Assault on Federal Officer or Employee
12 with a Deadly or Dangerous Weapon-Elements.

13 "The defendants are charged in Count Five of the
14 Superseding Indictment with assault on a federal officer in
15 violation of Section 111(b) of Title 18 of the United States
16 Code. In order for the defendant to be found guilty of that
17 charge, the Government must prove each of the following
18 elements beyond a reasonable doubt:

19 "First, the defendant forcibly assaulted a federal
20 officer or employee;

21 "Second, the defendant did so while the federal
22 officer or employee was engaged in, or on account of, his or
23 her official duties; and

24 "Third, the defendant used a deadly or dangerous
25 weapon.

1 "There is a forcible assault when one person
2 intentionally threatens another coupled with an apparent
3 ability to inflict injury on another which causes a reasonable
4 apprehension of immediate bodily harm.

5 "A reasonable apprehension of immediate bodily harm
6 is determined with reference to a reasonable person aware of
7 the circumstances known to the victim. Circumstances unknown
8 to the victim are not included.

9 "The Government is not required to prove that the
10 defendant knew the victim was a federal officer. The
11 Government is also not required to prove that the defendant
12 intended to cause bodily injury.

13 "A firearm, loaded or unloaded, is a dangerous
14 weapon. Federal officers acting in the good faith performance
15 of their duties may not be forcibly resisted by another.

16 "Instruction No. 14.

17 "Count Eight-Threatening a Federal Law Enforcement
18 Officer-Elements.

19 "The defendants are charged in Count Eight of the
20 Superseding Indictment with threatening to assault a federal
21 officer in violation of Section 115 of Title 18 of the United
22 States Code. In order for the defendant to be found guilty of
23 this charge, the Government must prove each of the following
24 elements beyond a reasonable doubt:

25 "First, the defendant made a statement or did an act

1 that constituted a threat to assault a federal law enforcement
2 officer;

3 "Second, the defendant intended the statement or act
4 to be a threat or made the statement or did the act knowing the
5 words or actions would be viewed as a threat;

6 "Third, that a reasonable person making the statement
7 or doing the act would foresee that the statement or act would
8 be interpreted by those to whom the maker communicated the
9 statement or act as a serious threat;

10 "Fourth, that the threat was made with the intent to
11 impede, intimidate, or interfere with the federal law
12 enforcement officer or to retaliate for the performance of his
13 or her official duties.

14 "A threat is a serious statement expressing an
15 intention to inflict bodily injury at once or in the future, as
16 distinguished from idle or careless talk, exaggeration, or
17 something said in a joking manner.

18 "To determine whether or not statements or acts
19 constitute a threat, you should consider the circumstances
20 under which the alleged threat was made, including its context
21 with respect to surrounding events, the reaction of those who
22 heard the statements or saw the acts, the physical and mental
23 condition of the defendant, and whether the statements or acts
24 were conditional.

25 "It is not necessary that the Government prove that

1 the defendant intended to carry out the threat or that he had
2 the present ability to carry out the threat. It is not
3 necessary that the Government prove the exact words or actions
4 that constitute the threat.

5 "The defendant need not communicate the threat
6 directly to the intended target.

7 "The Government must prove beyond a reasonable doubt
8 that the victim was a federal law enforcement officer at the
9 time the threat was made, but the Government does not have to
10 prove that the defendant knew that he or she was a federal law
11 enforcement officer.

12 "A federal law enforcement officer is any officer,
13 agent, or other employee of the United States government who is
14 authorized by law or by a government agency to engage in or
15 supervise the prevention, detection, investigation, or
16 prosecution of any violation of federal criminal law.

17 "'Impede' means to stop the progress, obstruct, or
18 hinder. 'Intimidate' means to make timid or fearful, to
19 inspire or affect with fear, to frighten, or to defer.
20 'Interfere with' means to come into collision with, to
21 intermeddle, to hinder, to interpose, or to intervene. To
22 'retaliate' means to return for like, to act in reprisal for
23 some past act.

24 "Instruction No. 15.

25 "Count Twelve-Obstruction of Justice-Elements.

1 "The defendants are charged in Count Twelve of the
2 Superseding Indictment with Obstruction of Justice in violation
3 of 1503 -- Section 1503 of Title 18 of the United States Code.
4 In order for a defendant to be found guilty of that charge, the
5 Government must prove each of the following elements beyond a
6 reasonable doubt:

7 "First, that the defendant influenced, obstructed, or
8 impeded, or tried to influence, obstruct, or impede, the due
9 administration of justice;

10 "Second, that the defendant acted corruptly, or by
11 threats or force, or by any threatening communication, with the
12 intent to obstruct justice.

13 "The Government need not prove that the defendant's
14 sole or even primary intention was to obstruct justice so long
15 as the Government proves beyond a reasonable doubt that one of
16 the defendant's intentions was to obstruct justice. The
17 defendant's intention to obstruct justice must be substantial.

18 "The word 'corruptly' as used in this instruction
19 means that the act must be done with the purpose of obstructing
20 justice.

21 "Instruction No. 16.

22 "Count Fourteen-Hobbs Act Extorsion-Elements.

23 "The defendants are charged in Count Fourteen of the
24 Superseding Indictment with extortion by force, violence, or
25 fear in violation of Section 1951 of Title 18 of the United

1 States Code. In order for a defendant to be found guilty of
2 that charge, the Government must prove each of the following
3 elements beyond a reasonable doubt:

4 "First, the defendant induced someone to part with
5 property by the wrongful use of actual or threatened force,
6 violence, or fear;

7 "Second, the defendant acted with the intent to
8 obtain property;

9 "Third, commerce from one state to another was
10 affected in some way.

11 "A defendant's claim of right to the property is not
12 a defense.

13 "The word 'fear' as used in this instruction means an
14 apprehension, concern, or anxiety about physical violence or
15 harm that is reasonable under the circumstances.

16 "Conduct affects interstate commerce if it in any way
17 interferes with, changes, or alters the movement or
18 transportation or flow of goods, merchandise, money, or other
19 property in commerce between or among the states. The effect
20 can be minimal. It is not necessary to prove that the
21 defendant intended to obstruct, delay, or interfere with
22 interstate commerce or that the purpose of the alleged crime
23 was to affect interstate commerce. Further, you do not have to
24 decide whether the effect on interstate commerce was to be
25 harmful or beneficial to a particular business or to commerce

1 in general. You do not even have to find that there was an
2 actual effect on commerce.

3 "All that is necessary to prove this element is that
4 the natural consequence of the offense potentially caused an
5 effect on interstate commerce to any degree, however minimal or
6 slight.

7 Instruction No. 17.

8 "Count Sixteen-Interstate or Foreign Travel in Aid of
9 Extortion-Elements.

10 "The defendants are charged in Count Sixteen of the
11 Superseding Indictment with violating Section 1952(a)(2) of
12 Title 18 of the United States Code. In order for a defendant
13 to be found guilty of that charge, the Government must prove
14 each of the following elements beyond a reasonable doubt:

15 "First, that the defendant traveled in interstate
16 commerce or used a facility in interstate commerce, namely the
17 Internet or World Wide Web, with the intent to commit a crime
18 of violence in furtherance of an unlawful activity, namely
19 extortion in violation of Nevada law;

20 "Second, that after doing so, the defendant committed
21 or attempted to commit the violent crime in furtherance of the
22 unlawful activity.

23 "Nevada Revised Statute Section 205.320, concerning
24 extortion, provides in pertinent part, that a person who, with
25 the intent to extort or gain any money or other property . . .

1 or to do or abet or procure any illegal or wrongful act,
2 whether or not the purpose is accomplished, threatens directly
3 or indirectly, to injure a person or property, has committed
4 the offense of extortion.

5 "You are instructed that assault on a federal
6 officer, Count Five, and threatening a federal officer, Count
7 Eight, are crimes of violence. It is for you to determine
8 whether the defendant traveled in interstate commerce or used a
9 facility in interstate commerce with the intent to commit a
10 crime of violence in furtherance of the unlawful activity.

11 "Instruction No. 18.

12 "Counts Six, Nine, and Fifteen-Using, Carrying, or
13 Brandishing a Firearm During and in Relation to a Crime of
14 Violence-Elements.

15 "The defendants are charged in Counts Six, Nine, and
16 Fifteen of the Superseding Indictment with using, carrying, or
17 brandishing a firearm during and in relation to three different
18 crimes of violence in violation of Section 924(c) of Title 18
19 of the United States Code. The crimes of violence are:

20 "Count Five, assault on a federal officer, which
21 relates to the underlying crime for Count Six.

22 "Count Eight, threatening a federal officer is the --
23 the crime of violence for the crime of Count Nine.

24 "And Count Fourteen, interference with interstate
25 commerce by extortion is the underlying crime of violence for

1 Count Fifteen.

2 "In order for a defendant to be found guilty of any
3 one of these charges, the Government must prove each of the
4 following elements beyond a reasonable doubt:

5 "First, the defendant committed the underlying crime
6 as charged in Counts Five, Eight, or Fourteen of the
7 Superseding Indictment, all of which I instruct you are crimes
8 of violence; and

9 "Second, that the defendant knowingly used or carried
10 a firearm during and in relation to that crime.

11 "A defendant used a firearm if he actively employed
12 the firearm during and in relation to the crime of violence.

13 "A defendant carried a firearm if he knowingly
14 possessed it and held, moved, conveyed, or transported it in
15 some manner on his person or in a vehicle.

16 "A defendant used or carried a firearm during and in
17 relation to the crime if the firearm facilitated or played a
18 role in the crime as charged in that particular count of the
19 Superseding Indictment.

20 "If you find a defendant guilty of using or carrying
21 a firearm during and in relation to a crime of violence in
22 violation of Section 924(c) of Title 18 of the United States
23 Code as charged in Counts Six, Nine, or Fifteen of the
24 Superseding Indictment, you will then be asked to find if the
25 Government proved beyond a reasonable doubt that the defendant

1 brandished the firearm during and in relation to the crime of
2 violence.

3 "A defendant brandished a firearm if he displayed all
4 or part of the firearm, or otherwise made the presence of the
5 firearm known to another person, in order to intimidate that
6 person, regardless of whether the firearm was directly visible
7 to that person.

8 "Instruction No. 19.

9 "Firearm.

10 "The term 'firearm' means any weapon which will or is
11 designed to or may be readily converted to expel a projectile
12 by the action of an explosion -- an explosive, or the frame or
13 receiver of any such weapon. The Government is not required to
14 prove that a firearm was loaded or operable.

15 "Instruction No. 20.

16 "Liability for Substantive Offense Committed by
17 Co-Conspirators.

18 "Each member of the conspiracy is responsible for the
19 actions of the other conspirators performed during the course
20 and in furtherance of the conspiracy. If one member of the
21 conspiracy commits a crime in furtherance of a conspiracy, the
22 other members have also, under the law, committed that crime.

23 "Therefore, you may find the defendants guilty of the
24 crime as charged in Counts Five, Six, Eight, Nine, Twelve,
25 Fourteen, Fifteen, or Sixteen of the Superseding Indictment if

1 the Government has proved each of the following elements beyond
2 a reasonable doubt:

3 "First, that a person committed the crime as alleged
4 in Counts Five, Six, Eight, Nine, Twelve, Fourteen, Sixteen,
5 Fifteen of the Superseding Indictment; and

6 "Second, that the defendant was a member of the
7 conspiracy charged in Counts One or Two, or both;

8 "Third, that the person committed the crime in
9 furtherance of the conspiracy charged in Counts One or Two, or
10 both; and

11 "Fourth, the defendant was a member of the same
12 conspiracy at the time that the offense charged in Counts Five,
13 Six, Eight, Nine, Twelve, Fourteen, Fifteen, and Sixteen was
14 committed; and

15 "The fifth element the Government must prove is that
16 the offense fell within the scope of the unlawful agreement and
17 could reasonably have been foreseen to be a necessary or
18 natural consequence of the lawful agreement.

19 "Instruction No. 21.

20 "Aiding and Abetting.

21 "A defendant may be found guilty of the crimes
22 charged in Counts Five, Six, Eight, Nine, Twelve, Fourteen,
23 Fifteen, or Sixteen of the Superseding Indictment, even if the
24 defendant personally did not commit the act or acts
25 constituting the crime, but they aided and abetted in its

1 commission. To prove a defendant guilty of a crime by aiding
2 and abetting, the Government must prove each of the following
3 beyond a reasonable doubt:

4 "First, the crime was committed by someone;

5 "Second, the defendant aided, counseled, commanded,
6 induced, or procured that person with respect to at least one
7 element of the crime;

8 "Third, the defendant acted with the intent to
9 facilitate the crime; and

10 "Fourth, the defendant acted before the crime was
11 completed.

12 "It is not enough that the defendant merely
13 associated with the person committing the crime, or unknowingly
14 or unintentionally did things that were helpful to that person,
15 or was present at the scene of the crime. The evidence must
16 show beyond a reasonable doubt that the defendant acted with
17 the knowledge and intention of helping that person commit the
18 crime.

19 "Instruction No. 21.1.

20 "A defendant acts with the intent to facilitate the
21 crime when the defendant actively participates in a criminal
22 venture with advanced knowledge of the crime and having
23 acquired that knowledge when the defendant still had a
24 realistic opportunity to withdraw from the crime.

25 "The Government is not required to prove precisely

1 which defendant actually committed the crime and which
2 defendant aided and abetted.

3 "Instruction No. 22.

4 "Defendant's Decision Not to Testify.

5 "A defendant in a criminal case has a constitutional
6 right not to testify. You may not draw any inference of any
7 kind from the fact that the defendant did not testify.

8 "Instruction No. 23.

9 "Defendant's Decision to Testify.

10 "One of the defendants has testified. You should
11 treat this testimony just as you would the testimony of any
12 other witness.

13 "Instruction No. 24.

14 "What is evidence?

15 "The evidence you are about to -- you are to consider
16 in deciding what the facts are consists of:

17 "Number 1. The sworn testimony of any witness; and

18 "Number 2. The exhibits received in evidence; and

19 "Number 3. Any facts to which the parties have
20 agreed.

21 "Instruction No. 25.

22 "What is Not Evidence.

23 "In reaching your verdict you may consider only the
24 evidence and exhibits received in evidence. The following
25 things are not evidence and you may not consider them in

1 deciding what the facts are:

2 "Number 1. Questions, statements, objections, and
3 arguments by the lawyers are not evidence. The lawyers are not
4 witnesses. Although you must consider a lawyer's question to
5 understand the answer of a witness, the lawyer's questions are
6 not evidence. Similarly, what the lawyers have said in their
7 opening statements, will say in their closing statements, and
8 at other times is intended only to help you interpret the
9 evidence, but it is not evidence. If the facts as you remember
10 them differ from the way the lawyers state them, your memory of
11 them controls.

12 "Number 2. Any testimony that I have excluded,
13 stricken, or instructed you to disregard is not evidence. In
14 addition, some evidence was received only for a limited
15 purpose; when I have instructed you to consider certain
16 evidence in a limited way, you must do so.

17 "Number 3. Anything you may have seen or heard when
18 the court was not in session is not evidence. You are to
19 decide the case solely on the evidence received at the trial.

20 "Instruction No. 26.

21 "Direct and Circumstantial Evidence.

22 "Evidence may be direct or circumstantial. Direct
23 evidence is direct proof of a fact, such as testimony by a
24 witness about what the witness personally saw or heard or did.
25 Circumstantial evidence is indirect evidence, that is, it is

1 proof of one or more facts from which you can find another
2 fact.

3 "You are to consider both direct and circumstantial
4 evidence. Either can be used to prove any fact. The law makes
5 no distinction between the weight to be given to either direct
6 or circumstantial evidence. It is for you to decide how much
7 weight to give to any evidence.

8 "Instruction No. 27.

9 "Evidence for a Limited Purpose.

10 "During trial you were advised that Mr. Burleson's
11 phone conversation with FBI agent Michael Caputo was to only be
12 admitted against Mr. Burleson. Also during trial you were
13 advised that the audio of Mr. Parker's custodial interview with
14 FBI Agent Mark Seyler was only to be admitted against
15 Mr. Parker. You must consider this evidence only limited as to
16 that defendant.

17 "Instruction No. 28.

18 "Jury Consideration of Punishment.

19 The punishment provided by law for this crime is for
20 the Court to decide. You may not consider punishment in
21 deciding whether the Government has proved its case against the
22 defendant beyond a reasonable doubt.

23 "Instruction No. 29.

24 "Credibility of Witnesses.

25 "In deciding the facts in this case, you may have to

1 decide which testimony to believe and which testimony not to
2 believe. You may believe everything a witness says, or part of
3 it, or none of it.

4 In considering the testimony of any witness, you may
5 take into account:

6 "Number 1. The witness' opportunity and ability to
7 see or hear or know the things testified to;

8 "Number 2. The witness' memory;

9 "Number 3. The witness' manner while testifying;

10 "Number 4. The witness' interest in the outcome of
11 the case, if any;

12 "Number 5. The witness' bias or prejudice, if any;

13 "Number 6. Whether other evidence contradicted the
14 witness' testimony;

15 "Number 7. The reasonableness of the witness'
16 testimony in light of all the evidence; and

17 "Number 8. Any other factors that bear on
18 believability.

19 "The weight of the evidence as to a fact does not
20 necessarily depend on the number of witnesses who testify.
21 What is important is how believable the witnesses were, and how
22 much weight you think their testimony deserves.

23 "Instruction No. 30.

24 "Statements by a Defendant.

25 "You have heard testimony that a defendant made a

1 statement. It is for you to decide, number one, whether a
2 defendant made the statement, and number two, if so, how much
3 weight to give to it. In making those decisions, you should
4 consider all the evidence about the statement, including the
5 circumstances under which a defendant may have made it.

6 "Instruction No. 31.

7 "Witness Pretrial Preparation.

8 "It is proper for an attorney to interview any
9 witness in preparation for trial.

10 "Of course, in the process of trial preparation, a
11 party may not suggest that the witness depart from the truth.

12 "You have also heard testimony that a witness read or
13 reviewed certain material pertaining to the case before the
14 witness testified at trial. The law permits a witness to do
15 so.

16 "Instruction No. 32.

17 "Government's Use of Undercover Agents.

18 "You have heard testimony from an undercover agent
19 who was involved in the Government's investigation in this
20 case. Law enforcement officials may engage in stealth and
21 deception, such as the use of undercover agents, in order to
22 investigate criminal activities. Undercover agents may use
23 false names and appearances.

24 "Instruction No. 33.

25 "Duty to Deliberate.

1 "When you begin your deliberations, elect one member
2 of the jury as your presiding juror who will preside over the
3 deliberations and speak for you here in court.

4 "You will then discuss the case with your fellow
5 jurors to reach agreement if you can do so. Your verdict,
6 whether guilty or not guilty, must be unanimous.

7 "Each of you must decide the case for yourself, but
8 you should do so only after you have considered all the
9 evidence, discussed it fully with the other jurors, and
10 listened to the views of your fellow jurors.

11 "Do not be afraid to change your mind -- your opinion
12 if the discussion persuades you that you should. But do not
13 come to a decision simply because other jurors think it is
14 right.

15 "It is important that you attempt to reach a
16 unanimous verdict but, of course, only if each of you can do so
17 after having made your own conscientious decision. Do not
18 change an honest belief about the weight and effect of the
19 evidence simply to reach a verdict.

20 "Instruction No. 34.

21 "Consideration of Evidence-Conduct of the Jury.

22 "Because you must base your verdict only on the
23 evidence received in the case and on these instructions, I
24 remind you that you must not be exposed to any other
25 information about the case or to the issues it involves.

1 Except for discussing the case with your fellow jurors during
2 your deliberations:

3 "Do not communicate with anyone in any way and do not
4 let anyone else communicate with you in any way about the
5 merits of the case or anything to do with it. This includes
6 discussing the case in person, in writing, by phone, or
7 electronic means, via e-mail, text messaging, or any Internet
8 chat room, blog, website, or other feature. This applies to
9 communicating with your family members, your employer, the
10 media or press, and the people involved in the trial. If you
11 are asked or approached in any way about your jury service or
12 anything about this case, you must respond that you have been
13 ordered not to discuss the matter and to report the contact to
14 the Court.

15 "Do not read, watch, or listen to any news or media
16 accounts or commentary about the case or anything to do with
17 it; do not do any research, such as consulting dictionaries,
18 searching the Internet, or using other reference materials; and
19 do not make any investigation or in any other way try to learn
20 about the case on your own.

21 "Instruction No. 34.1.

22 "The law requires these restrictions to ensure the
23 parties have a fair trial based on the same evidence that each
24 party has had an opportunity to address. A juror who violates
25 these restrictions jeopardizes the fairness of these

1 proceedings, and a mistrial could result that would require the
2 entire trial process to start over. If any juror is exposed to
3 any outside information, please notify the Court immediately.

4 "Instruction No. 35.

5 "Use of Notes.

6 Some of you have taken notes during the trial.
7 Whether or not you took notes, you should rely on your own
8 memory of what was said. Notes are only to assist your memory.
9 You should not be overly influenced by your notes or those of
10 your fellow jurors.

11 "Instruction No. 36.

12 "Communication with the Court.

13 "If it becomes necessary during your deliberations to
14 communicate with me, you may send a note through the Court
15 Security Officer, signed by any one or more of you. No member
16 of the jury should ever attempt to communicate with me except
17 by a signed writing, and I will respond to the jury concerning
18 the case only in writing or in here open court. If you send
19 out a question, I will consult with the lawyers before
20 answering it, which may take some time. You may continue your
21 deliberation while waiting for the answer to any question.
22 Remember that you are not to tell anyone, including me, how the
23 jury stands, numerically or otherwise, on any question
24 submitted to you, including the question of the guilt of any
25 defendant, until after you have reached a unanimous verdict or

1 have been discharged.

2 "Instruction No. 37.

3 "Verdict Form.

4 "A verdict form has been prepared for you. After you
5 have reached unanimous agreement on a verdict, your presiding
6 juror should complete the verdict form according to your
7 deliberations, sign and date it, and advise the Court Security
8 Officer that you are ready to return to the courtroom.

9 "Verdict Form.

10 "We, the jury, in the above-entitled case, upon our
11 oaths do say:

12 "Count One.

13 "As to Count One of the Superseding Indictment
14 charging Conspiracy to Commit an Offense Against the United
15 States, in violation of Title 18, United States Code, Section
16 371, We, the jury, unanimously find that there was an agreement
17 between two or more persons to commit at least one of the
18 following crimes charged in the Superseding Indictment; choose
19 all that apply unanimously:

20 "Number 1. Assault on a federal officer.

21 "Number 2. Threatening a federal law enforcement
22 officer.

23 "Number 3. Use and carry of a firearm in relation to
24 a crime of violence.

25 "Number 4. Obstruction of the due administration of

1 justice.

2 "Number 5. Interference with interstate commerce by
3 extortion.

4 "Number 6. Interstate travel in aid of extortion.

5 "Or Number 7. None of the above. If the jury
6 chooses this answer, then the jury must find all defendants not
7 guilty of Count One.

8 For Count One, "We, the jury, unanimously find as to
9 . . ." and then it lists all the defendants in alphabetical
10 order with the option of "not guilty" or "guilty."

11 "Count Two.

12 "As to Count Two of the Superseding Indictment
13 charging Conspiracy to Impede or Injure a Federal Officer, We,
14 the jury, unanimously find that there was an agreement between
15 two or more persons to do the following":

16 Choose all that apply.

17 "Number 1. To prevent by force, intimidation, or
18 threats, federal law enforcement officers from discharging the
19 duties of their office under the United States.

20 "Number 2. To induce by force, intimidation or
21 threats, any federal law enforcement officer of the United
22 States to leave the place where their duties were required to
23 be performed.

24 "Number 3. None of the above. If the jury chooses
25 this answer, then the jury must find all defendants not guilty

1 of Count Two.

2 For Count Two. "We, the jury, unanimously find as
3 to . . ." and then again, all the defendants are listed in
4 alphabetical order with the two options, "not guilty" or
5 "guilty."

6 "Count Five.

7 "As to Count Five of the Superseding Indictment
8 charging Assault on a Federal Officer, We, the jury,
9 unanimously find the defendant . . ." and the defendants are
10 listed in alphabetical order with the two options of "not
11 guilty" and "guilty."

12 "Count Six.

13 "As to Count Six of the Superseding Indictment,
14 Using -- charging Use and Carry of a Firearm During and in
15 Relation to a Crime of Violence, this relates to Count Five,
16 Assault on a Federal Officer" -- the crime of violence -- let
17 me say that again.

18 So, "Count Six."

19 The charge in Count Six is Use and Carry of a Firearm
20 During and in Relation to a Crime of Violence. The crime of
21 violence referred to in this Count Six is Count Five, Assault
22 on a Federal Officer.

23 Then the defendants are in alphabetical order, the
24 first one being Gregory Burleson, with the option of "not
25 guilty" or "guilty."

1 "If the jury finds a defendant guilty of Count Six of
2 the Superseding Indictment, the jury must also answer the
3 following question:

4 "We, the jury, unanimously find that the firearm was
5 brandished."

6 "No" or "yes."

7 And the same follows for each of the defendants in
8 alphabetical order.

9 "Count Eight.

10 "As to Count Eight of the Superseding Indictment
11 charging Threatening a Federal Law Enforcement Officer, We, the
12 jury, unanimously find the defendant . . ." and again, in
13 alphabetical order -- "not guilty" or "guilty."

14 "Count Nine.

15 "As to Count Nine of the Superseding Indictment
16 charging Use and Carry of a Firearm During and in Relation to a
17 Crime of Violence" -- the crime of really referred to here is
18 Count Eight, Threatening a Federal Law Enforcement Officer --
19 "We, the jury, unanimously find as to . . ." again, each
20 defendant is listed in alphabetical order. And, for example,
21 for the first one, Gregory Burleson, you are to find whether or
22 not -- choose one of the two options; "not guilty" or "guilty."
23 And then "If the jury finds the defendant guilty of Count Nine
24 of the Superseding Indictment, the jury must also answer the
25 following question:

1 "We, the jury, unanimously find that the firearm was
2 brandished," and the options are "no" or "yes."

3 And the same follows for the other defendants in
4 alphabetical order.

5 "Count Twelve.

6 "As to Count Twelve of the Superseding Indictment
7 charging Obstruction of the Due Administration of Justice, We,
8 the jury, unanimously find the defendant . . ." listed in
9 alphabetical order and each one has the option for you to
10 choose "not guilty" or "guilty."

11 "Count Fourteen of the Superseding Indictment
12 charging Interference with Interstate Commerce by Extortion,
13 "We, the jury, unanimously find the defendant . . ." again,
14 listed in alphabetical order and the two choices are "not
15 guilty" or "guilty." Each defendant has a separate choice for
16 you to choose.

17 "Count Fifteen.

18 "As to Count Fifteen of the Superseding Indictment
19 which charges Use and Carry of a Firearm During and in Relation
20 to a Crime of Violence" -- the crime of violence here is the
21 one charged in Count Fourteen, Interference with Interstate
22 Commerce by Extortion -- "We, the jury, unanimously find . . ."
23 The defendants are listed in alphabetical order. The choices
24 are "not guilty" or "guilty."

25 "If the jury finds the defendant guilty of Count

1 Fifteen in the Superseding Indictment, the jury must also
2 answer the following question:

3 "We, the jury, unanimously find that the firearm was
4 brandished." "No" or "yes" are the two options.

5 And the same follows for each of the other individual
6 defendants.

7 "And Count Sixteen.

8 "As to Count Sixteen of the Superseding Indictment
9 charging Interstate Travel in Aid of Extortion, We, the jury,
10 unanimously find the defendant . . ." They're listed, again,
11 in alphabetical order, with two options of "not guilty" or
12 "guilty."

13 "So say we all," and then the foreperson is to date
14 and sign the verdict form.

15 All right. Do we need a break before we go into
16 summation? It's up to you.

17 MR. MYHRE: Yes, Your Honor.

18 THE COURT: I probably put everyone to sleep.

19 MR. MYHRE: No, Your Honor. That's fine.

20 Yes, Your Honor. We would ask for a break. However,
21 I just want to clear up one matter on Instruction 20, and I
22 probably misheard the Court but I just wanted it to be clear,
23 on the second element under the co-conspirator liability, the
24 Court -- I heard the Court say the second -- the "defendant"
25 was a member of the conspiracy as opposed to the "person." So

1 I just wanted to make sure that that was clear on the record.

2 THE COURT: This was Instruction No. 20?

3 MR. MYHRE: Yes, Your Honor.

4 THE COURT: Do you remember what line?

5 MR. MYHRE: Line 17.

6 And I apologize if I misheard, Your Honor, but . . .

7 THE COURT: All right. So there's four elements.
8 The second element is that "the person was a member of the
9 conspiracy charged in Counts One or Two, or both." It doesn't
10 have to be a defendant; it's just "the person" was a member of
11 the conspiracy. Sorry if I misspoke.

12 MR. MYHRE: Thank you, Your Honor.

13 THE COURT: All right. So let's go ahead and take
14 about a 10-minute stretch break.

15 Again, the jury is reminded, do not discuss this case
16 with anyone. Do not read, or listen to, or view anything
17 touching upon this case, nor attempt to perform any research or
18 any independent investigation and please do not form an
19 opinion.

20 We'll go ahead and stand for the jury.

21 It's 10:05. We'll welcome them back at 10:15.

22 Everyone can take a stretch break. We won't take another break
23 until lunch.

24 (Jury excused from courtroom.)

25 (Recess was taken at 10:05 a.m.)

1 (Outside the presence of the jury at 10:30 a.m.):

2 THE COURT: All right. We're on the record. It
3 looks like everyone's back in the courtroom. We're going to
4 call in the jury.

5 COURTROOM ADMINISTRATOR: All rise.

6 (Jury returned to courtroom at 10:31 a.m.)

7 THE COURT: All right. Everyone may be seated.

8 We welcome back the jury and now we're going to begin
9 with the Government's summation.

10 Mr. Dickinson.

11 MR. DICKINSON: Defense counsel, Your Honor, ladies
12 and gentlemen of the jury, Cliven Bundy told everyone to go get
13 the cattle.

14 "Long gun." "Unknown rifle to the right side of the
15 white van." "All lanes of the northbound I-15 have been shut
16 down." "Post 2, you have a huge group walking towards you down
17 that road." "40 horses 20 minutes out." "Two long guns."
18 "You also have three individuals on the overpass with
19 handguns." "Guy. Got a guy heading at you with a long gun."
20 "Looks like you have a guy above you with a long gun on the
21 side of the freeway." "People with long guns wearing vests."
22 "Two with long guns under the bridge." "Two long guns. We
23 have lost track of how many long guns in the crowd." "20 long
24 guns that are up on the bridge and in the crowd." "Horses
25 coming towards us at this time." "They're wearing body armor."

1 "Individual with M4 got a scope and a mag and M4 on northbound
2 overpass. One is wearing a black hat with a white insignia
3 with body armor."

4 Ladies and gentlemen, those are just some of the
5 things, that three years ago today, federal law enforcement
6 officers saw in the Toquop Wash about 70 miles northeast of
7 this courthouse. It was the day that those officers, and
8 specifically the 14 officers -- federal law enforcement
9 officers that you heard from, personally, in this case, will
10 never forget. They thought they were going to die in that wash
11 for simply carrying out their lawful duties.

12 So on that day Cliven Bundy and his armed followers,
13 including these six defendants (indicated), assaulted,
14 threatened, intimidated, extorted, and obstructed federal law
15 enforcement officers into releasing close to 400 head of cattle
16 that were lawfully in the custody of the United States
17 government. They also used the barrel of a gun to force those
18 officers to leave federal public lands where they were lawfully
19 carrying out their duties, and on that day those duties were
20 two federal court orders.

21 Now, despite those court orders, Cliven Bundy had
22 always said he would do whatever it takes to prevent BLM from
23 impounding his cattle. And you've heard in this case, once the
24 impoundment started in 2014, he quickly realized that he needed
25 more help. He aligned himself with the self-described militia

1 and they put out a call for arms and people answered. They
2 recruited gunmen. They traveled to Nevada to make a show of
3 force, to get the BLM and the National Park Service, and the
4 federal law enforcement officers to back down. And by the
5 morning of April 12th, hundreds of people, including armed
6 gunmen, specifically in this case, these six defendants, had
7 traveled and came to align themselves with the Bundys to
8 execute a plan to recover Bundy's cattle by armed force,
9 threats, and intimidation.

10 Ladies and gentlemen, you've heard a lot of evidence
11 in this case. You've seen a lot of video. You've seen a lot
12 of Facebook posts. You've been very patient and on behalf of
13 the United States, I want to thank you for your attention, on
14 behalf of Mr. Myhre, Ms. Creegan, and Ms. Ahmed.

15 And as Mr. Myhre told you when he gave his opening
16 statement, and as the Court has instructed you, the Government
17 bears the burden of proof beyond a reasonable doubt on all
18 charges. That is a burden that we told you we would meet and
19 that is a burden that we have met. We have proven all six of
20 these defendants guilty of all counts beyond a reasonable
21 doubt.

22 I want to spend some time this morning to talk to you
23 about and summarize why the Government has proven beyond a
24 reasonable doubt that these defendants are guilty. And at
25 first, How did this all start? It started with two federal

1 court orders.

2 (Exhibit published.)

3 Exhibits 5 and 6. One's six pages; one's five pages.
4 Clearly instructing Mr. Bundy that he needs to get his cattle
5 off the Bunkerville allotment and the Lake Mead National
6 Recreational Area and that they're in prep and if he doesn't do
7 it, the BLM will be authorized to do it for him. Mr. Petri
8 talked about the Court orders, talked about the litigation, and
9 talked about their legal authority. That left the BLM with the
10 job of enforcing those court orders. And you heard from Agent
11 Stover about how they had to go out and do it.

12 They had to impound over 1000 head of trespassed
13 cattle, over 578,000 acres of arid and difficult desert terrain
14 with large -- with small ingresses and egresses, very difficult
15 terrain. They needed a roving gathering rings of security.
16 You heard about the rings of security -- inner ring, outer
17 ring, more of an outer ring -- to prevent any sort of influence
18 or obstruction of those contractors because they needed
19 contractors. They needed trucks. They needed helicopters.
20 They needed large trucks that could carry cattle. All of this
21 was very dangerous going in and out of these small ingresses
22 and egresses so they needed a security operation.

23 They also needed a place to set up their command
24 post. We -- you've all seen it now, the ICP, off the
25 Interstate 15, and they chose that because it had a simple

1 ingress and egress from the 15. And they set up their command,
2 which was rather large, many trailers, many equipment, the pens
3 to hold the cattle that were being impounded, and they kept it
4 away from the Bundys and their property as much as they could.
5 Seven miles away from the Bundy ranch, set off in the back of
6 the freeway. If you just drove by on I-15, you wouldn't really
7 know unless you looked and saw the entrance to the -- to
8 Post 1.

9 And you heard a little bit about the security and
10 Agent Briscoe told you that they had it secure, and there was
11 concern about Post 1, up front, because that's where people
12 would naturally enter and exit. But they had some security on
13 Post 2, down underneath the wash and then behind them in Post
14 6, where people could enter through the back in the desert.
15 But their primary concern was Post 1. Control the access
16 points.

17 So the BLM gets out there and starts their plan.
18 There's the temporary closure order which you heard about and
19 the temporary closure order closed a large portion of the Lake
20 Mead National Recreation Area and the Bunkerville allotment.
21 However, it was not a permanent closure order. It was in place
22 from March 22nd through May 12th and it didn't close the entire
23 lands for the entire period of time. What was closed was where
24 the BLM were going to be working that day. It was a roadblock.
25 So if BLM was working in one portion gathering cattle, in the

1 area around that would be closed.

2 They also set up the First Amendment areas on either
3 side. You heard about that. But it didn't prevent people from
4 protesting or exercising their First Amendment rights in areas
5 where the BLM were not operating on that specific date.

6 There was a Notice of Intent to Impound, Exhibit 8,
7 that was sent out. The Bundys saw it. It was posted at the
8 post offices. It was commonly well known that the BLM was
9 going to start a cattle impoundment.

10 Again, the BLM knew that there theoretically might be
11 some sort of obstruction from the Bundy family is what they
12 thought. They had heard "whatever it takes" over the years and
13 they wanted to prevent that. So you heard from Special Agent
14 Michael Johnson, they went out trying to search out members of
15 the Bundy family to say, Hey, the impoundment's going to start.
16 We don't want trouble. We want to have a contact, et cetera.
17 They finally made contact with Ryan Bundy. And you heard
18 portions of that phone call, Exhibit 13. And, in short,
19 Ryan Bundy is very agitated, tells Special Agent Johnson, We're
20 going to do whatever it takes, we're going to bring hundreds of
21 people, and we're not going to let you impound our cattle.

22 That takes us to March 28th, when the contractors are
23 pulling into the ICP with their horse trailers and their trucks
24 and they're out on to the I-15. That's Exhibit 14, and that
25 was videotaped and put on the Internet with the title "Range

1 War" with the subtitles "The BLM's Stealing the Cattle" and it
2 had this sort of western song lyrics to it, but what you saw
3 was that Cliven, Ryan Bundy and others were blocking the convoy
4 of civilian vehicles, riding in and out, taking pictures of the
5 license plates. Ryan Bundy putting his hand in and out of his
6 jacket or his -- appearing like he had a gun. And that's the
7 day, ladies and gentlemen, that the conspiracy definitely
8 started, on March 28th, as it's alleged in the Indictment,
9 where clearly now the Bundys are obstructing the BLM's
10 operations.

11 And at that point, as Special Agent Stover told you,
12 the threat assessment went up. Like, okay. Now we're actually
13 seeing things go on. And this goes on and on and on until
14 April 11th.

15 You heard Agent Stover talk about a call from the
16 Arizona port of entry where Ryan and Cliven Bundy went up there
17 asking the lady working there if she had seen stolen cattle
18 coming through. That was on March 31st, 2014.

19 April 2nd you heard Agent Stover talk about that
20 their threat assessment went up because they heard about
21 interference up at the cattle barn in Utah where they had --
22 BLM had contracted to take the impounded cattle, with
23 Ryan Bundy and others disrupting the auction. That raised the
24 BLM's threat assessment.

25 April 6th, Dave Bundy's arrested for failure to

1 disperse.

2 Now, on April 7th you heard Agent Stover testify that
3 himself and Agent Love went out and met with some of the Bundys
4 to return Dave Bundy's property and Ammon Bundy was out there
5 and he had one of the closure signs that the BLM had had out on
6 parts of the area tied to his ATV. And he told them, he told
7 Agent Stover and Agent Love, "You know what you can do? You
8 can get the hell off our land. You can leave them cows right
9 where they are and get the hell out. We're going to win this
10 thing. We're going to win this war today. Guaranteed."

11 Agent Stover told you what they were seeing then now
12 on social media that the narrative was the BLM's out of
13 control, they're stealing Bundys's cattle, they're acting
14 illegally, they're violating Mr. Bundy's rights, BLM is locking
15 people out of public land.

16 That goes all the way up and through the 11th where
17 they're posting, Exhibit 11, where now BLM has found someplace
18 to take the cattle in California at the Euclid Stockyard. They
19 somehow find out about that, encouraging people to call
20 Euclid Stockyard and say don't take the cattle, et cetera.
21 Each step of the way the BLM's threat assessment is rising.
22 But what this is not impeding is the BLM's ability to impound
23 the cattle. The BLM is successfully impounding the cattle.
24 They're doing what the court orders allow them to do. And by
25 the morning of April 11th, 377 cattle, approximately, had been

1 impounded and were housed at the impoundment site.

2 The Bundys realized they couldn't do it alone. So
3 what happened? As you've heard, the Bundys aligned themselves
4 with the militia and they put out a call for people to come to
5 Bundy ranch, with guns, to face off with the federal government
6 to stop them from collecting his cattle.

7 (Exhibit published.)

8 We first start seeing that with Ricky Lovelien. And
9 this is prior to April 12th. It's in 2013, but it shows you
10 his state of mind that carries forward into April 12th, 2014.

11 Talks about the country, but down below, "I am an
12 American. I demand our country back and if you will not give
13 it back, then we are quite prepared to take it back, so help me
14 God."

15 (Exhibit published.)

16 We go into Operation Mutual Aid. This is
17 Ryan Bundy -- I mean, Ryan Payne from Montana and
18 Jerry Bruckhart from Pennsylvania. And they have a website and
19 they discuss their motives, et cetera. We have shown you --
20 through -- Agent Seyler testified about this extensively and
21 there are a number of exhibits and these are just a sample
22 of -- of how Ricky Lovelien and others went to this website,
23 saw what they were posting, saw OMA's objectives.

24 "Expected the militia to act offensively in defense
25 of freedom. At any time people feel their ability to pursue

1 happiness is being hindered by the government, they have a
2 constitutional duty to act offensively in defense for the
3 pursuit of happiness."

4 So double-talk, but essentially act defensively if
5 you personally feel like your constitutional rights are being
6 violated.

7 (Exhibit published.)

8 Now we see the Bundys. Carol Bundy updating her
9 Facebook status. "They have the cattle. Now they have my
10 boys. Rang war begins tomorrow at Bundy ranch at 9:30. We are
11 getting the job done."

12 (Exhibit published.)

13 Back to Ricky Lovelien.

14 "Contact info to coordinate groups. Ryan Payne,
15 OMA," gives his phone number. "They have made live contact and
16 are setting up security ops."

17 So now you have Ricky Lovelien coordinating with
18 Ryan Payne who is coordinating with the Bundys to bring the
19 militia with guns to Bunkerville. This is Ricky Lovelien, who
20 you heard was co-leader of the Montana State Defense Force in
21 other slides, evidence, referred to himself as
22 Captain Lovelien.

23 (Exhibit published.)

24 Here, we're seeing Mr. Payne and Mr. Lovelien
25 communicating. April 7th. "Rick, please call me as soon as

1 possible. Send your number to my contacts. Thanks, sua
2 sponte. Please keep me updated."

3 So clearly now Mr. Lovelien and Mr. Payne are
4 coordinating, coordinating their efforts to get to Bundy ranch
5 and to get other so-called self-styled militia to Bundy ranch
6 with guns.

7 (Exhibit published.)

8 Rick Lovelien to Randy Eaton on the 8th of 2014
9 [sic]. Pleading for help -- or said -- saying a plea -- "A
10 plea for help went out yesterday. Other militia units are
11 mobilizing. I am in contact with one of the coordinators.
12 Waiting for more intel at this time." Again, showing that Mr.
13 Lovelien is coordinating, coordinating with militia groups to
14 come to Bundy ranch on April 8th.

15 "Do we have an exact location?" Ryan Payne, giving
16 him coordinates.

17 "I just got off the phone with Cliven. He knows we
18 are coming. He has opened his land up to everyone willing.
19 OMA is moving. Not going public with it until we are en
20 route."

21 Why not go public with it? Because they're bringing
22 armed militia into Nevada to help Cliven Bundy.

23 (Exhibit published.)

24 Now we have Mr. Engel. He's posting a video on
25 YouTube. "Must watch. They've taken his cattle. Now they

1 took his son. If they want war, let it begin here. Oiling
2 bolt, loading magazines." Oiling bolt, referring to a rifle,
3 and loading magazines. Not making a sign to come protest.

4 (Exhibit published.)

5 Now we have Mr. Engel clearly being -- or observing
6 and knowing about Operation Mutual Aid.

7 You can see Operation Mutual Aid, his Facebook page
8 April 9th, 2014. "Gentlemen, make me cry peace. Peace, but
9 there is no peace. The war has actually begun. The gale
10 sweeps from the north will bring to our ears the clash of
11 resounding arms," et cetera, et cetera. "Give me liberty or
12 give me death" he ends with. So no, Mr. Engel is aware of
13 what's going on.

14 The Bundys are clearly knowing what's going on now
15 and they've recruited Operation Mutual Aid. Carol Bundy
16 updating her Facebook status.

17 "Attention, all people, friends and family and
18 Facebook world, the Bundy family is requesting help from
19 militia groups, including Operation Mutual Aid, 3 Percenters
20 Club, Freedom Fighters, and other operations to come and stand
21 with us and regain our rights and freedom. The Bundy family is
22 grateful and overwhelmed with the support of millions of people
23 from around the country," et cetera.

24 (Exhibit published.)

25 Now defendant Parker is aware. He's on social media.

1 Now it's starting to spread like wildfire. "Got a neighbor in
2 some trouble down in Nevada. What are you going to do when the
3 shooting starts?"

4 He's linking to a militia group.

5 (Exhibit published.)

6 Exhibit 178. Now we have Rick Lovelien posting to
7 his Montana State Defense Force militia site.

8 "Nevada militia has officially broadcasted a mutual
9 aid request of Oath Keepers and militia." Gives a contact
10 information. "This is not a drill. Repeat. This is not a
11 drill." You know, "Rumors going around that Bundy doesn't want
12 help. He really does. Pass the word to people for rapid
13 deployment to Nevada outside of Las Vegas."

14 (Exhibit published.)

15 Rick Lovelien again. "Direct contact with personnel
16 at the Bundy ranch." He's heading out shortly himself. He's
17 traveling from Montana to Nevada. "There's plenty of camping
18 room provisions. Direct request from Mr. Bundy. Anyone
19 wishing to join me is welcome to do so. Contact me."

20 Recruiting. He's recruiting other militia members.

21 (Exhibit published.)

22 Ryan Payne. Now we have Ryan Payne on ground in
23 Nevada on April 9th.

24 (Government Exhibit 208 published.)

25 Clearly demonstrating that they're recruiting militia

1 to come help Mr. Bundy and that people are coming.

2 Also on the 9th we have, on Exhibits 30 and 31,
3 Peter Santilli and Melvin Bundy -- Mel Bundy, Cliven Bundy's
4 son, they go to the ICP, Post 1. They want to talk to
5 somebody. Agent Love comes out and talks to them. But they
6 tell me, "What are you going to do if 10,000 people show up?
7 Are you prepared for this? I don't believe in firing a single
8 bullet unless it's an absolute defense and it's legal and
9 constitutional."

10 Again, double-speak. Just warning them. Nobody
11 maybe took that seriously at that point, but, "What are you
12 going to do if 10,000 people show up?"

13 (Exhibit published.)

14 Back to Mr. Parker, April 10th, again, onto Facebook,
15 posting an article. "Citizens of the United States fought the
16 toughest, biggest army in the world in 1776. Do not think we
17 can't do it again."

18 "Interview with Mr. Bundy, the rancher in Nevada.
19 'If they keep messing around, they're going to figure out
20 exactly what battle born means.' The militia is already in his
21 front yard and Stewart Rhodes, the founder of the Oath Keepers,
22 just asked all the Keepers from Arizona and California to bring
23 their camping gear. We have rights . . . has no place in
24 America."

25 His own words. He's talking about the war, comparing

1 it to 1776. Clearly knows the militia was there and they're
2 coming to Nevada, or if they're not already in Nevada on
3 Mr. Bundy's front yard.

4 (Exhibit published.)

5 Exhibit 272. Now we have Mr. Burleson. His message.
6 "Attention all militia and concerned citizens of America,
7 militia has been activated and a call for help has been issued
8 by the Bundy family and the town folk in this area. This isn't
9 a drill. Call to arms. Arizona Militia units have been
10 activated and we are en route to aid the Bundy ranch.
11 Nationwide units are en route to Nevada. Contact me for
12 details to the next mobilization to Nevada this weekend."

13 Again, now we see Mr. Burleson knows and he's also
14 recruiting.

15 You can also see that in Exhibit 335, his Long Bow
16 interview, 335 clip B, he discusses his meetings and his
17 coordination with other Arizona Militia groups and their
18 decision to come to Nevada to show force for Mr. Bundy.

19 (Exhibit published.)

20 Now we head back to Mr. Lovelien. Cheyenne Miller,
21 who you heard from Agent Seyler, is Mr. Lovelien's sister.
22 This is distributed to the Montana State Defense Force Facebook
23 page. They set out their goals. "Secure the Bundy family from
24 government incursion, which includes protection of all persons
25 held responding in support of the Bundys, protestors, extended

1 family and friends. Thus, setting off protestors from
2 militia."

3 "Number 2. Return the confiscated Clark County
4 Nevada property -- the cattle -- currently blocked by federal
5 personnel to the rightful stewards the people of Clark County,
6 Nevada."

7 "To secure a return to Mr. Bundy's ranch the mounting
8 number of cattle which had been confiscated by BLM agents and
9 private contractors."

10 Actually, Number 3 is the cattle; Number 2 is just
11 talking about the federal public lands. These are their
12 objectives. It goes on. But clearly, at April 10th,
13 Mr. Lovelien knows the objectives are to get the cattle back.

14 (Exhibit published.)

15 Again, Mr. Lovelien.

16 Ryan Payne ends with -- with talking to another
17 militia member. "The local rep is here. They're late as 'F.'
18 Montana has most guys. Utah, Nevada, unorganized. Idaho.
19 Many more en route. I am designated liaison for the militia
20 via Cliven Bundy. In constant communication and all
21 information disseminated is vetted by him."

22 So now Ryan Payne is the militia leader. He's there.
23 All his information is being disseminated and worked in concert
24 with Cliven Bundy.

25 (Exhibit published.)

1 Gentleman named Matt Steffan communicating with
2 Rick Lovelien. "Just a suburban load of guys coming from
3 Gasparilla (phonetic). They are three leaving at -- there
4 are -- they are leaving 3:00 a.m. tomorrow morning. I believe
5 most of them are Oath Keepers. Well, they will join Stewart
6 Rhodes and Sheriff Mack when they get there." Keeping
7 Mr. Lovelien informed of his recruitment efforts.

8 (Exhibit published.)

9 Cheyenne Miller on Montana State Defense Force.

10 "This just in. Ricky Lovelien, Montana State Defense
11 Force, will be running the security detail at the protest site
12 on the Bundy branch in Nevada. All support and prayers
13 welcome."

14 What goes on on April 8th, he's -- Mr. Lovelien, or
15 as he likes to call himself in some of the e-mails,
16 Captain Lovelien, is running the security operation at Bundy
17 ranch, which we know is true from other evidence you've heard
18 in this case.

19 (Exhibit published.)

20 Mr. Stewart. "Sick of this 'S' . . . heading to
21 Nevada now. Heading to Nevada. Going to stand up with my
22 fellow countrymen against a corrupt government."

23 (Exhibit published.)

24 Ricky Lovelien. Morning of the 12th. Posting about
25 "the patriots can find sanctuary from the feds at the Bundy

1 ranch and a nearby Indian tribal office."

2 (Exhibit published.)

3 Shockingly, not a coincidence, Todd Engel posting a
4 similar, "We're staging at the Moapa Indian Reservation where
5 the feds are restricted access."

6 Ladies and gentlemen, you have to ask yourself, why?
7 Why would these six defendants, why would they travel to a
8 place they had never been, for people they didn't know, for
9 something they knew very little about, in and around the days
10 of April 12th, 2014? By their own words, some of which we've
11 seen here, some of which we're going to continue to see, they
12 were clearly coming to match force or show force or stand up to
13 the federal government, but not with signs, but with guns.

14 They might not have known when they got in their car,
15 when Mr. Parker, Mr. Stewart, and Mr. Drexler got in their car
16 that they'd be standing in that wash on March 12th -- on
17 April 12th, and Mr. Lovelien might not have known when he got
18 into his white truck that he'd be standing in that wash on
19 April 12th, or Mr. Burleson, when he got in his car, with
20 others from Arizona, but that's not what we have to prove to
21 you. We have to prove to you that they conspired with each
22 other to commit the crimes in the Indictment. And by the time
23 of the morning of April 12th they had clearly entered into an
24 agreement and had a plan, if they didn't already have the plan
25 before, which the Government submits the evidence shows they

1 did.

2 It's shocking how little information they had.
3 They're getting it from the Internet. They're getting it from
4 each other, crossposting from the militia.

5 You heard Mr. Parker himself. Well, I saw this, I
6 saw that, I saw Dave Bundy, I saw Ammon Bundy, but this post I
7 didn't even read. This post doesn't fit with what I -- you
8 know, that the BLM is the big bad person in the group, so I
9 didn't read that. I saw the court orders, but, you know, they
10 could be corrupt. No one knew anything. They knew what they
11 heard from their fellow militia members, to come to
12 Cliven Bundy's ranch to stand up to the federal government, to
13 show force, to bring guns. We need to match force with force.

14 (Exhibit published.)

15 April 12th. "I see all those" -- it's Greg Burleson.
16 "I see all those who have gone before me and they begged me to
17 make my place beside them in Valhalla. Feds and BLM have
18 started confiscating weapons from civilians. Unconfirmed" --
19 just like everything else these defendants saw, and thought
20 they saw, and thought what they believed -- "400 more BLM
21 rangers are on their way to the Bundy ranch. I look forward to
22 joining my ancestors in the afterlife. Wagon burner. Wish me
23 a good fight and a good death."

24 Pretty clear what Mr. Burleson's intentions were when
25 he was traveling to Bunkerville.

1 Now, on April 11th, the day before, the BLM's
2 starting to see with their own intelligence that people are
3 coming into to Nevada with guns. They see the Internet. They
4 see what's going on. They see a lot of these posts. They also
5 see, if you recall Special Agent Sully's testimony -- he's the
6 one that went -- one of the two that went undercover. He was
7 out there on the 7th and they went out there and they didn't
8 see much. They saw cowboys. They saw some locals with
9 handguns, but not out of the ordinary for what you would see in
10 Bunkerville, Nevada. But at that point Cliven's plan and the
11 plan was being implemented. They put up their stage, their own
12 base of operations. Saw the pictures of putting up the poles.
13 One of them they apply the American flag below the state flag
14 and the county flag.

15 Fast-forward to the 11th. Sully goes out there. He
16 sees militia. He sees people with long guns. He hears
17 Mel Bundy telling someone about the militia camps. He talks to
18 somebody called JT who tells him all the important decisions
19 are being made in the militia camps and that we have more guns
20 and better guns than the BLM.

21 Also, on the morning of the 11th, you have
22 Peter Santilli, who comes, again, this time with a
23 Colonel Potter to meet with Dan Love. Dan Love comes out and
24 talks with him. But what -- you can -- and you can listen to
25 it, it's Exhibit 50. Love is calm. Polite. He's a little

1 more aggressive this time, but he's aggressive because of what
2 Mr. Santilli is telling him. And part of what he said is, "We
3 are going to have a face-to-face confrontation. We have
4 thousands of people. We are going to come here and it's
5 non-negotiable. If that comes about, we want to make sure any
6 BLM officer who wants to stand down will not be retaliated
7 against. This is non-negotiable. If you make the decision to
8 go face to face and someone gets hurt, we are going to hold you
9 responsible. You tell D.C. the justification from this is from
10 a corrupt court. I'm relaying a message," because as you know,
11 Mr. Santilli was the liaison for the Bundys. His words. "If
12 anyone is acting unconstitutionally, they will be arrested."
13 Doesn't say arrested by who. "I came here to allow you to
14 prevent a scenario where someone gets hurt."

15 Again, double-speak. It's do what we want. Stop
16 collecting the cattle. Leave. And then you don't have to hurt
17 anybody. Because otherwise, we're going to put you in a
18 position where you're going to have to hurt somebody.

19 And you heard Love and he said, "You're going to have
20 to have more people than that," and "What are you going to do,
21 go arrest the sheriff?" Because it really does sound somewhat
22 unbelievable. But as you've heard, what Mr. Santilli said, it
23 might not have been thousands, but it was hundreds, actually
24 happened, less than 24 hours after Mr. Santilli had that
25 conversation with Special Agent Love.

1 So, the threat level is rising. Everything is coming
2 to a head.

3 As Special Agent Stover told you, they get a call
4 from the FBI and the FBI needs to tell them, and this is a --
5 this ultimately is why the BLM stopped impounding the cattle.
6 And the FBI, in D.C., as Mr. Stover told you, the deputy
7 assistant director, said at that particular time the FBI's
8 intelligence was showing a buildup of militia like they had
9 never seen before anywhere and that it was a flashpoint. If
10 you leave, it's a flashpoint, if you stay, it's a flashpoint.
11 If you confront the Bundys, it's a flashpoint. If you collect
12 more cattle, it's a flashpoint. If you do anything, it's a
13 flashpoint. That's what the BLM was faced with. And that's
14 not what the BLM was prepared for. They were prepared to come
15 out, impound a thousand head of cattle over a large area, and
16 that's what they had the law enforcement resources to do, to
17 protect the civilians and their equipment. They didn't have
18 the resources to stand up against an armed mob. So they go in
19 to do the best they can with what they have with their
20 training. And as Special Agent Stover told you, at that point
21 their top priority was to ensure the safety of the civilians,
22 the contractors working -- the contractors working there and to
23 develop a plan to get -- to move the cattle out of the area and
24 at that point it was to the Euclid Stockyards in California.
25 So that's what they started to do. And that night they started

1 to fortify, the best they could, their impoundment area. And
2 still -- and still, as you heard, the most -- the most logical
3 place that anyone would come down there and try to do anything
4 and get in would be Post 1, and that that's where they focused
5 their efforts. They put some people down at Post 2. You heard
6 from Ranger Johnson, Greg Johnson, the one who's on the radio
7 for like an hour, tell you, he was in his car all night down at
8 Post 2. They had, like, a car back -- I think Agent Johnson
9 was -- the other, Michael Johnson was back by the trailers.
10 They also had another agent back at Post 6, but the focus was
11 at Post 1.

12 What's happening up the road seven miles? The
13 militia camps are there. People are pouring in. Defendants
14 Drexler, Parker and Stewart arrived. They get there. They
15 meet one of the Bundy sons. Where do you want to camp?
16 Protestors? Or militia camp? Militia camp. We're not
17 militia, but we're going to stand with the militia. Mr. Parker
18 told you, you heard from him in his undercover Long Bow video,
19 we want to go to the militia camp and camp with the militia. I
20 believe he testified one of the reasons was we wanted
21 information. So that's where they go. They end up doing guard
22 duty. Of course, no special -- no federal law enforcement came
23 that night to attack the Bundys at their protest site or their
24 house. But they do guard duty and then they get up the next
25 morning and there's a briefing. There's a blue tent where

1 everyone goes to get briefed and everyone from each group has
2 to send a leader. There's the 3 Percenters. There's the Oath
3 Keepers. There's the Montana group. There's the Arizona State
4 Militia who were very organized, the guys in the camouflage.
5 Mr. Parker goes with his group. They're briefed. It's going
6 to be a fluid plan. We want to protect Cliven. He's going to
7 be brought to the stage and we got to protect him. And the
8 sheriff's going to come and, you know, depending on what the
9 sheriff says, it's a fluid plan. We know that, at least. But
10 as we'll see, Mr. Parker, Mr. Stewart, and Mr. Drexler are then
11 seen around all morning with Mr. Lovelien.

12 And it wasn't just the FBI or the federal government
13 getting anybody all ginned up that the militia are there to do
14 something. Here we have Government's Exhibit 373.

15 (Exhibit published.)

16 On a Saturday morning, the sheriff of Clark County
17 and his entire leadership team, as well as a full Saturation
18 Team led by Sergeant Jenkins, as well as a SWAT Team are
19 deployed to the Bunkerville area. The sheriff himself comes
20 out because as the sheriff of Clark County, he feels like he
21 might be able to keep this peaceful.

22 (Exhibit published.)

23 Here we see 9:00 a.m., Mr. Drexler, Mr. Stewart,
24 Mr. Parker testified that he was in the front seat, with their
25 long guns, are at the rally site, in Captain Lovelien's car,

1 the security leader, the commander of the security at the Bundy
2 ranch.

3 (Exhibit published.)

4 There they are again, Mr. Parker, Mr. Lovelien.
5 (Indicating). Providing security.

6 (Exhibit published.)

7 Gentleman in camouflage, desert fatigues.

8 (Exhibit published.)

9 Again, Mr. Parker, Mr. Stewart, and Mr. Drexler
10 (indicating).

11 But here, at their base of operations, they didn't
12 need their long guns. They kept those in the car.

13 (Exhibit published.)

14 Again, Mr. Lovelien standing, waiting.

15 Horses already set up on the hill at 10:30
16 (indicating).

17 Sheriff wants to meet with Cliven Bundy and as you
18 heard, from now Sheriff Lombardo, Cliven Bundy said, No. I'm
19 not going to meet with you; you're going to meet with the
20 people. You're going to meet with us on stage. That's fine.
21 Sheriff's going to do what he thinks is best. He gets on
22 stage. I'm not going to play it again. You've heard it
23 countless times. But the most important thing he says is, "I'm
24 here to make an emotional issue safe." Safe. It clearly was
25 an emotional issue and he wanted to make it safe. And he talks

1 about how the BLM's ending their impoundment operations and
2 they need to get their stuff out of there and we need to
3 discuss how they're going to do that safely, and then people
4 started going on about the cattle. He never said that the
5 BLM's gone. He never said that the BLM is leaving right this
6 second. It's undeniable that none of that could be implied
7 from what the sheriff said. And to be quite honest, it doesn't
8 matter because the BLM were still there, on federal land, as
9 federal officers, where they could be, to do their job.

10 But what does Cliven Bundy do?

11 It's not good enough. They want unconditional
12 surrender. They want the cattle back. At this point they got
13 everything they want. The BLM's leaving. They're not going to
14 start impoundment anymore. The closure area is going to be
15 lifted. We just got to talk about how the BLM are going to get
16 out of here and then we got to talk about the cattle, which the
17 BLM -- which the BLM is frantically trying to get to California.
18 And we got to facilitate this in a safe way. Not good enough.
19 Sheriff gets the microphone -- or Cliven Bundy gets his
20 microphone, gets his yellow legal pad where he had his speech
21 written out and makes his ridiculous demands. Go disarm the
22 Park Service. Go tear down Red Rock. Go tear down Lake Mead.
23 Go to the compound and get the guns and stack them up here at
24 the flag pole in front of these people.

25 Not here to negotiate. That was his bottom line.

1 Put legs under the sheriff. Let's ridicule the sheriff on
2 stage, which is fine. Where's that getting you? Nowhere.
3 It's inciting the crowd. The crowd that Cliven Bundy and Ryan
4 Payne, Rick Lovelien, and everybody else either came or
5 recruited to be in front of that stage on that day to show
6 force.

7 Cliven says, If you don't do it within the hour, then
8 we'll see what -- we'll see what the plan's going to be.
9 Anyone in their right mind knows that the sheriff is not coming
10 back in an hour. He's not disarming the federal government,
11 he's not disarming federal agents, he's not tearing down the
12 Red Rock toll booth. None of that's happening. This is all
13 just rhetoric to gin up the armed crowd.

14 He knows he has to strike while the iron is hot. He
15 can't negotiate. He can't negotiate the release of his cattle.
16 He has what he wants right there, right then, on that Saturday
17 morning, armed militia ready to do his bidding.

18 Parker, Drexler, Lovelien, Engel, they hear it. They
19 don't leave. They stay. They stay.

20 You hear at 334C, Drexler talks about he goes and
21 gears up after the sheriff's speech. Eric Parker now knows the
22 situation is "so severe," that he feels like he has to call his
23 wife and children. He's not going to protest, ladies and
24 gentlemen. That wouldn't be so severe.

25 They waited an hour. "Sheriff has been given one

1 hour to disarm BLM." Not, hey, I'm at this rally and the
2 sheriff -- or Cliven Bundy said some crazy stuff to the
3 sheriff. Maybe I should go home.

4 Ladies and gentlemen, the judge instructed you on
5 conspiracy and I'm going to go back and talk about that a
6 little bit towards the end, but you have to have a plan. It
7 doesn't have to be in writing. It doesn't have to be in blood.
8 It doesn't have to be a contract. But in this case we've seen
9 the plan develop through the evidence to this point, this point
10 in time when Cliven Bundy gets on that stage and he tells the
11 people to go get my cattle, go down the Toquop Wash, et cetera,
12 which we're going to hear in a second, for these -- or five of
13 these six defendants know exactly that's the plan and if they
14 hadn't already joined the conspiracy, which I submit to you
15 they have, they're in, and they're in for it all. Because once
16 you join, you're responsible for everything that happened
17 before you and everything that happens after if it's reasonably
18 foreseeable. And everything that took place on April 12th,
19 2014, after this moment, was reasonably foreseeable to the --
20 five of the six defendants -- and I'll talk about Mr. Burleson
21 in a second -- that were there at that stage and heard this
22 speech.

23 I want to point out, that's Ryan Payne on the stage
24 (indicating), with the long gun, the militia liaison or the
25 militia leader for the Bundy family as you heard from

1 Carol Bundy herself, talking with one of his troops. They're
2 all lined up in front of the stage.

3 (Government Exhibit 427 published.)

4 You saw that video again, all the militia, Ryan Payne
5 on the side, talking to them. Cliven Bundy gives the order,
6 gives the plan, gives some double-talk. You're free people,
7 decide. That's all fine and good, but we know what
8 Mr. Drexler, defendant Burleson -- I mean, defendant Drexler,
9 Stewart, Parker, Engel, and Lovelien do. They go. They
10 choose. They make a choice. They don't go home.

11 What we do know at this time, and what everyone in
12 that crowd knows, is that the BLM's still there. They
13 weren't -- they hadn't left. They still had their weapons,
14 because the sheriff hadn't brought them back and stacked them
15 in front of the flag pole. There's a decent chance the cattle
16 might be there, or they might have been gone to California,
17 like Cliven said. It appears Cliven wasn't sure, but that's
18 what we know. And that's what we know when they leave to get
19 in their cars and drive the seven miles down the road to the
20 ICP where the BLM are.

21 (Exhibit published.)

22 This could not be more clear. Eric Parker, right
23 after. "Bundy gave the sheriff one hour to disarm the BLM. He
24 did not reply. We are now going to free the cattle by any
25 means." Not by holding up a sign that says "Free the Cattle."

1 "The sheriff claimed that the BLM is standing down, but offered
2 no proof." No proof the BLM is standing down. "Mr. Bundy gave
3 him the do-it-or-else. We will not be lied to."

4 Mr. Parker knows, he knows what he signed up for and
5 he knows what he's going to do.

6 (Exhibit published.)

7 Todd Engel. "Headed out to block the freeway and
8 take the cows back." Not hold a protest sign. "Leaving now to
9 shut down the freeway by force of arms." Arms. Armed
10 standoff.

11 (Exhibit 100A published.)

12 The militia has shut down northbound, just like
13 Cliven Bundy told them to do

14 They've chosen. They've made a choice. Stewart,
15 Drexler, Lovelien, Parker (indicating). Had to pull over to
16 let Sergeant Serena through, blocking the freeway, impeding law
17 enforcement from getting where they needed to go

18 Now, when the sheriff heard the ridiculous demands,
19 he knew what was going to happen, or might happen, so he
20 immediately goes down to the ICP and talks to the BLM and says,
21 Hey, Cliven Bundy said -- told me to come disarm you. Talks to
22 them. Sheriff leaves his command staff. Leaves now Sheriff
23 Lombardo in charge of the situation, and goes back to try to
24 talk with BLM upper people and the governor about what can we
25 do to diffuse the situation. And he leaves. He also leaves

1 his Homeland Security unit, led by Sergeant Jenkins who you
2 heard from, a SWAT Team, and they begin -- they go --
3 they're -- Lombardo drives down to where they are, sets up for
4 a while, and then he hears the people are coming. They're
5 coming. He got the call. Cliven Bundy gave the order, they're
6 coming to get the cattle.

7 (Exhibit published.)

8 So, Metro comes up and at this point, at 11:17, Metro
9 is not there, but as we can see, BLM, again, focused all their
10 attention, for the most part, or the majority of their
11 attention, at Post 1. The natural ingress off the freeway.

12 And going back real quick, you also heard
13 Sheriff Lombardo, who was at the speech, that when they told
14 Sheriff Gillespie to go get those guns, that the crowd
15 attitude -- or the attitude of the crowd, their demeanor,
16 "behavior had completely changed from the point we had
17 arrived." Sheriff Lombardo told you when he arrived, he was
18 concerned at that point, before Cliven Bundy gave his
19 ridiculous demands, by the unknown armed people, who he had no
20 idea how they were trained, no idea where they were from, no
21 idea what their intentions were

22 So now Metro comes up. We have people arriving.

23 Mr. Engel.

24 (Government Exhibit 70 published.)

25 Parking on the side of the freeway, fully tacked out,

1 with a long gun. The side of Interstate 15. Have you ever
2 seen that before? Use your common sense. He's not holding a
3 sign. He's getting out of that car with a purpose, or his
4 truck with a purpose.

5 So now Metro arrives and you had Sergeant Jenkins'
6 led Saturation Team, and they put up the line, again, focusing
7 on Post 1, which would have been the natural entryway. And you
8 heard Sergeant Jenkins talk to you. His goal was no one enters
9 Post 1. But what they're seeing, they're seeing guns
10 everywhere. Guns. Guns. Guns. Guns. Guns.

11 And as things progress, Ryan Bundy comes up to him,
12 recognizes Ryan Bundy and says, "Release the cows." Jenkins
13 says, I'm not here about cows; I'm here to keep the peace.
14 Ryan Bundy replied to him, "The blood of your team was going to
15 be on his hands if Jenkins did not release the cows." Then
16 Ryan Bundy started to cry.

17 So it starts to become a dangerous situation at
18 Post 1. All the militia people are piling in. And it's not
19 just them, as we'll see, as you've heard, it's the unarmed
20 people, it's the women and children, mixed in with the people
21 with guns that is a huge concern for law enforcement.

22 Sheriff Lombardo is there -- or now Sheriff
23 Lombardo -- who was left in charge by Sheriff Gillespie. As he
24 told you, he saw guns everywhere, but it's his job -- 29 years
25 of being a law enforcement officer -- to try to make the

1 situation stop. So he goes across the street, tries to find
2 someone -- tries to find a Bundy to talk to. He gets Dave
3 Bundy.

4 (Exhibit 103 published.)

5 Dave Bundy, he asks him, what's their -- What's your
6 intent? Dave Bundy says immediately, "Release the cattle."
7 Sheriff's like -- or Lombardo's like, the sheriff's returned to
8 Las Vegas to engage with the BLM, the governor, this is going
9 to take time to find an amenable solution, for him to slow
10 down. Dave Bundy's reply, "You have an hour."

11 Then the sheriff's questioned by people in the crowd.
12 Why do you have guns pointed? Why are there guns pointed? He
13 told you, I told them because we have guns pointed at us and I
14 was continually told to -- people are continuing to tell
15 Lombardo to do your job, do your job, do your job, whatever
16 that means. But the evidence is clear in this case what "do
17 your job" means is make the BLM leave and give us the cattle.

18 Now, Sheriff Lombardo told you that the crowd was
19 even more threatening. Their emotions were obviously higher
20 and it seemed like "they had a mission and it was to retrieve
21 the cattle."

22 He also told you that based on his training and
23 experience, in Las Vegas, with huge events, huge protests, he
24 needed 500 officers to secure the site. 500. Blocking of the
25 traffic made that impossible to get the officers there in the

1 hour time frame he was given by the Bundys.

2 And it was sucking up Nevada Highway Patrol's time as
3 well. They had a small group out there. You heard from them.
4 Highway patrol, Captain Thomas Jackson came in and told you he
5 saw firearms everywhere. He had never faced a group -- he's
6 now third in command at the highway patrol -- never faced a
7 group of people equipped in that way. They made him seem like
8 they were prepared for instant combat and instant firearm
9 combat. There was a palpable menace coming from the members of
10 this crowd is what he told you.

11 He ran into Mr. Burleson in his minuteman hat.

12 (Government Exhibit 76 published.)

13 You've seen still frames from this video. That's
14 when Mr. Parker gets on the bridge. Mr. Engel is already right
15 there (indicating) on the side of the bridge. He's not
16 running, his gun's down, vest on, hat forward, extra magazines,
17 walking onto the bridge. Clearly the gentleman screaming could
18 hear the orders.

19 A little bit about the orders. By this time
20 Greg Johnson, who you heard testify, you heard his video, you
21 sat here while we played the entire video, go home. Peacefully
22 leave. Leave the area. You're in violation of court orders.
23 Court orders. Court orders. Court orders. Peacefully leave.
24 Peacefully leave. You're in violation. You're in violation.
25 Was it windy out there? Were people far away? Were people

1 yelling? Absolutely, the evidence shows it. But it was
2 repeated over and over and over again for a long period of
3 time. By what the crowd's yelling and what other people are
4 saying, there is -- it is implausible that you could not hear
5 at least once "court orders" and "disperse the area." There's
6 closure orders. There's people with binoculars. There's
7 closure orders on those fences, and not that it matters,
8 because as the Court has instructed you, we don't have to prove
9 the defendants knew they were federal law enforcement officers,
10 but it's crystal clear that these (indicating) are people with
11 authority and that they are federal law enforcement officers,
12 or law enforcement officers, and any claim to the contrary is
13 ridiculous.

14 I'm going to -- so we'll walk through some of those
15 slides and saw what happened in the wash. These defendants
16 came to the BLM. The people in the crowd, the people on the
17 bridges, these six defendants, they sought out the BLM. The
18 BLM wasn't up at the rally site with Mr. Bundy protesting, they
19 weren't around there. They were in their compound, figuring
20 out how to get out of there and pack up and protect the cows
21 and protect the civilians. They came to them. They came to
22 the BLM's incident command post. They had come into a closed
23 area, to show force, to confront the BLM, to get them to back
24 down and to get the cattle back. And the only way they could
25 do that is by the barrel of a gun. By threatening them,

1 assaulting them, extorting them, and obstructing justice. And
2 they were all working together. It was clear concert of action
3 when you look at the evidence, ladies and gentlemen. They knew
4 that together they were a superior force assisting one another.
5 And they all knew the objective -- it's crystal clear -- which
6 could only be carried out by guns.

7 A little bit on Mr. Burleson.

8 He wasn't at the rally site and he didn't hear
9 Cliven Bundy give the orders, but the evidence shows by his
10 Facebook postings and by his Long Bow video and by his
11 association and planning with the Arizona Militia people that
12 he discusses, that he clearly knew what the objective was, and
13 his intent is crystal clear. I came here to kill federal
14 agents. Even if you want to chalk some of that up to, oh,
15 maybe he was boasting a little bit. Who boasts about that?
16 And he says it multiple times in multiple incarnations. And
17 once he gets there, he knows what the plan is and he describes
18 it. And you can see by his movement. So Mr. Burleson, at the
19 latest, is a plan -- is part of this conspiracy when he gets
20 into that wash. And the Government submits that the evidence
21 shows that he's joined the conspiracy when he's in Arizona
22 recruiting people and giving his intention of what's going to
23 happen when he gets there, which is to back down the BLM and
24 federal officers by a show of force and arms.

25 (Exhibit published.)

1 There is Mr. Burleson, in his minuteman hat, by the
2 NHP, Sergeant Jackson and -- I mean, Captain Jackson and
3 Sergeant Serena, both talk about seeing him in the distinct
4 minuteman hat.

5 Now the crowd has moved forward. So you already know
6 some people sat under the bridge, there was a prayer circle,
7 BLM is giving out orders to disperse, they're chanting under
8 the bridge. "Go home BLM." But when the horsemen arrive,
9 just -- and to mention, that Ammon Bundy had led that group
10 when they were waiting for the horsemen, the immediate second
11 the horsemen arrive, they move into the middle of the wash.

12 Now, the BLM is facing superior numbers, horses,
13 unarmed people, including women and children, in this crowd
14 (indicating). And numerous firearms. And not only firearms in
15 front of them (indicating), but as you've heard testimony,
16 firearms here (indicating), firearms here (indicating),
17 firearms -- when we get to it -- on the northbound bridge,
18 under the northbound bridge, on the skirts of the northbound
19 bridge. People moving in and out. Gas masks. Body armor.
20 The number of guns and the variety of guns, handguns, shotguns,
21 assault rifles. The tactical position and the movements of the
22 people with guns, the gunmen in the wash, the gunmen on the
23 skirt, the gunmen on the northbound bridge, the gunmen on the
24 side of the skirts, the gunmen bobbing up and down
25 specifically, as we'll see in a second, with spotting scopes,

1 an immense threat to the BLM and those officers behind that
2 gate. Nobody, nobody is obeying the lawful commands of the
3 officers. Nobody. They keep moving forward. They don't
4 listen. Leave. Peacefully leave. No one's trying to arrest
5 them. No one comes out from the gate. There's not a force up
6 on the northbound bridge ready to arrest the people coming out
7 of the wash. Just leave. Nobody leaves. More importantly,
8 these six defendants don't leave. They continue to use, carry,
9 brandish, and even point their firearms at federal law
10 enforcement officers.

11 (Exhibits published.)

12 One of the better exhibits showing the view at this
13 point in time from the BLM's -- somewhat from the BLM's
14 perspective. This is what they're seeing (indicating).
15 Trained law enforcement officers, though, are looking for the
16 guns. As you saw, Special Agent Simpkins came in and had the
17 summary chart that -- of clippets from where he pointed out
18 where the guns were.

19 People on the bridges (indicating), on the northbound
20 side. People under here (indicating). There's testimony there
21 were guns there. We know for a fact that there were guns here
22 (indicating), including someone in desert fatigues pruned out
23 with a long gun.

24 (Exhibit published.)

25 The stack. 11:58. No one is listening to commands.

1 No one is dispersing. Guns. Guns. Guns.

2 Not an unreasonable response. They're federal law
3 enforcement officers. They need to minimize the threat to
4 themselves and to the civilians behind them.

5 Contemplating dispersing gas. As you heard -- as you
6 heard them talk about, Officer McBride is holding this
7 (indicating). They decided that wasn't a good idea. There
8 were too many guns. The people were too angry. It could have
9 set things off. They used their training and their experience
10 to make a decision, even though they were told fire gas, to
11 exercise their judgment as law enforcement officers to say no,
12 not a good idea.

13 They were seeing gunmen on the sides of the bridge.
14 They're being told to stay in that position. Again, they used
15 their training and experience and they back up. They don't go
16 home, but they back up. That's how in fear they were and how
17 dangerous that situation was just after 11:58.

18 (Exhibit published.)

19 We start seeing our defendants on the bridge. 11:59.
20 Steven Stewart kneeling. Long gun.

21 (Exhibit published.)

22 11:59. Crowd still not obeying. Still staging.
23 (Indicating).

24 (Exhibit published.)

25 Start seeing Mr. Burleson's movements. He's up on

1 the skirt (indicating). Long gun.

2 (Exhibit published.)

3 Right there at 12 o'clock on that skirt (indicating).
4 The right skirt facing the officers.

5 (Exhibit published.)

6 And similar time on the left side, this gentleman
7 (indicating), proned out, with a long gun, towards law
8 enforcement officers.

9 (Exhibit published.)

10 Now we see Mr. Burleson moving over here (indicating)
11 a couple minutes later. Flanking, just like he told you. His
12 own words, "we were flanking," in his Long Bow video.

13 (Exhibit published.)

14 Keeps moving. 12:05.

15 (Exhibit published.)

16 Now he's got his gas mask on (indicating). 12:08,
17 which is consistent with seeing the officers with the pepper
18 ball guns, the big thing on top. It clearly is not -- for
19 anyone that knows firearms, which apparently Mr. Burleson has
20 some association with them, might recognize as a pepper ball
21 gun.

22 So, 12:08 gas mask in the crowd. Now Mr. Burleson
23 has flanked the BLM over here in the bush (indicating). Hat
24 backwards. Ready for battle.

25 (Exhibit published.)

1 Go back, 12:10. Now we have Eric Parker on the
2 bridge (indicating). Firearm can be seen. Can be seen. Can
3 be seen by those officers behind the bridge -- I mean, behind
4 the gate, while he's on the bridge. Up. Down. Up. Down.

5 12:10. Now, logically the person that was pruned,
6 same hat, another individual, camouflage (indicating). Can't
7 quite make out one way or the other. Logic tells you he was
8 probably armed.

9 (Exhibit published.)

10 Todd Engel, 12:10 p.m. See his gun pointing down the
11 northbound bridge. He's trying to say he was walking away,
12 walking away from trouble. No. He's right here (indicating),
13 looking this way, gun down. Tacked out in a vest. Not holding
14 a protest sign. Ready for battle.

15 (Exhibit published.)

16 Now we see Ammon Bundy who is leading this assault on
17 the BLM compound. He's clearly seeing Mr. Burleson, armed,
18 vest, gun.

19 See people up here (indicating).

20 If we could play Government's Exhibit 431F.

21 (Government Exhibit 431F published.)

22 "Go home BLM." "Go home BLM." "Go home BLM." They
23 clearly know they're BLM, telling them to go home. You've
24 heard testimony they were yelling give the cattle back. Get
25 the "F" out of here. All kinds of other chants.

1 So, at some point -- excuse me -- Sheriff Lombardo --
2 now Sheriff Lombardo, who, ladies and gentlemen, was
3 essentially asking -- acting as a hostage negotiator to get
4 those BLM officers and National Park Service officers and
5 civilians out of that compound, he pulled the plug. And he
6 told you why. He went down there and looked at it for himself.
7 He's already told you what he saw at Post 1 gun's everywhere,
8 people asking him to do his job, do your duty, follow your
9 oath. He told you he saw numerous individuals amassed up
10 against the fence line. There was also individuals up in the
11 concrete high elevation areas directly adjacent to the bridge
12 that were in possession of weapons pointing at the BLM, in the
13 direction of the BLM, and myself. And then there was numerous
14 individuals in possession of weapons up against the fence line
15 and the horses arrived to the rear of those individuals. "The
16 threat was there where weapons pointed in the direction --
17 pointed in our direction and we were basically defenseless at
18 that point." Felt shots would be fired, that the protestors --
19 the protestors -- the protestors would engage the BLM; not vice
20 versa. "My concern was personal safety and officer safety at
21 the scene and I am making the decision to release the cattle."

22 He was asked, "What is your assessment -- what was
23 your assessment of the overall -- in terms of the overall
24 threat that was present at that time? Did you fear shots would
25 be fired?" "Yes. It could have been a bloodbath." An hour

1 had passed, an hour from when Dave Bundy had told him, "You
2 have an hour." His concern was personal safety and officer
3 safety.

4 So, Special Agent Love heads to the gate to try to
5 diffuse the situation at Post 2, and this is about 12:13 p.m.

6 (Government Exhibit 432A published.)

7 "De-escalate the situation." "We're trying to get
8 ahold of your father to get an end to this." "We're not
9 playing here." "We're not playing here." Backed by an armed
10 mob, including these six defendants, Ammon Bundy tells him,
11 "We're not playing here. We're here -- we'll stay here as a
12 presence." It's the same show of force, match force. We're
13 staying here as a presence. If the presence wasn't armed
14 gunmen, they would not be releasing the cattle, ladies and
15 gentlemen.

16 "You need to leave." "You leave."

17 (Exhibit 111 published.)

18 Ladies and gentlemen, this is the disputed Exhibit
19 111. You heard sort of back and forth was Mr. Parker pointing
20 a gun, was he not pointing a gun. Government submits that this
21 shows he raised up his gun and was pointing it, but the real
22 purpose of slowing this down and showing you -- let's continue
23 to play it -- the real purpose of this is to show you what law
24 enforcement was seeing. Somebody coming up like this
25 (indicating) with a gun. Split second, split second

1 decision-making. And it wasn't just Mr. Parker on that bridge
2 as we all know. Mr. Engel, Mr. Lovelien, Mr. Stewart,
3 Mr. Drexler, and others, armed with long guns. That's what law
4 enforcement officers are seeing. They're also seeing all the
5 people in the wash. You heard Mr. Bushman, their own witness,
6 he counted 30, similar to Agent Simpkins, what he told you of
7 the law enforcement officers in the wash. Those are the
8 decisions. They make decisions off of those split second
9 actions.

10 You have an angry crowd, with guns, who's already
11 made their intent known, bobbing up and down like that?
12 Pointing. Not pointing. The intent is there. And as the
13 judge has told you, in none of the counts do we have to prove
14 anyone was pointing, although we know, of course, that
15 Mr. Parker and Mr. Drexler both pointed. It's the brandishing,
16 it's the carries, it's the using, it's the possessing, in front
17 of the law enforcement officers, to get what they want, to
18 assault them and threaten them.

19 Now we go to Mr. Lovelien and Mr. Engel on the
20 bridge.

21 (Exhibit 102 published.)

22 They're both on the bridge. They're both tacked out.
23 Mr. Lovelien's in full camouflage. They both have long guns.
24 They're both visible into the wash. They both can see the BLM.
25 The BLM can see them. This is where Sergeant Serena tells you

1 he's sort of talking to Mr. Engel and he's saying, oh, they're
2 pointing guns and he thinks, oh, some -- somebody's pointing
3 guns at law enforcement officer, or he's confused, he doesn't
4 really understand what the situation is -- for law enforcement
5 officer is unbearable and that's when Captain Lovelien walks up
6 and says, as Sergeant Serena told you, it appeared he was in
7 some position of authority because Mr. Engel stopped talking,
8 turned away, didn't want to interact with him anymore, and
9 that's what you see right there.

10 And then at 12:16, Mr. Burleson in his flanking
11 position, long gun, hat backwards, vest.

12 Mr. Parker, 12:18, proned out on Interstate 15, 70,
13 80 miles from here.

14 Again, use your common sense, ladies and gentlemen.
15 When have you ever seen that on the freeway?

16 Sort of the perfect place and the perfect time for
17 these defendants. Middle of nowhere. Even though it's --
18 close to Las Vegas. BLM outnumbered. Now we can match force
19 with the federal government. Now it's possible. Possible
20 (indicating).

21 Here's Mr. Drexler. Clearly Mr. Parker's here and
22 the people taking pictures of him, on the bridge 12:18, proned
23 out, pointing at law enforcement officers

24 12:20. Proned. Pointing at law enforcement
25 officers.

1 12:20. Mr. Drexler, same position. Gun down,
2 looking over, observing, ready.

3 12:23. Todd Engel down, long gun. Ready to be
4 brought up. I suggest to you the evidence shows that he's not
5 resting his back.

6 Captain Lovelien, standing watch. Waiting
7 (indicating).

8 (Exhibit published.)

9 Agent Seyler testified identifying Mr. Lovelien's
10 gun, 191 and 192. He had that on his Facebook page. One of
11 the guns that intimidated, threatened, and assaulted the law
12 enforcement officers that day.

13 (Exhibit published.)

14 12:23. Mr. Parker still down, prone (indicating),
15 aiming at law enforcement. Mr. Drexler (indicating), some
16 other guy (indicating), long gun. Point out, as Mr. Parker
17 stated, I believe in his interview, oh, militia, some could be
18 crazy, some could be nuts, racist, whatever. Want to blow up
19 the government. He had no idea who this guy was (indicating),
20 what his training was, or not training. I'm not here -- I
21 would -- the Government would submit it's not good either way.
22 Maybe this person had all the firearms training in the world
23 and was an expert. That wouldn't be good for law enforcement.
24 Or maybe he had no idea how to operate his weapon and he had
25 bought it at Walmart two days ago to go show force with the

1 federal government and answer the call to arms.

2 (Exhibit published.)

3 Now Mr. Drexler has found his own crack (indicating)
4 with the water bottles we've seen. So now he's followed
5 Mr. Parker's direction.

6 It's also good to notice up here (indicating), three
7 guys in desert fatigues (indicating), all surrounding the BLM
8 and the National Park Service officers when they're in that
9 fatal funnel.

10 (Exhibit published.)

11 Now, now Mr. Parker is ready (indicating). He's got
12 his backpack, elbow rested, gun through, hat backwards, just
13 like officers testified. He's turning his hat backwards. You
14 heard -- you heard what that meant to the law enforcement
15 officers. That now he's ready to fire.

16 That definitely was assaulting them, intimidating
17 them, threatening them, with a long gun, combined with all the
18 other people with long guns, and handguns, and horses, and gas
19 masks, and vests.

20 (Exhibit published.)

21 Mr. Engel -- I mean, Mr. Drexler now, clear of what
22 he's seeing (indicating), women and children (indicating),
23 unarmed men mixed in there.

24 Again, 12:39. Mr. Parker's still down (indicating).
25 Mr. Drexler's taking a break getting some water. Mr. Stewart's

1 above, long gun above. Officers can see. We've also heard
2 testimony of the bouncing up and down, of the movement.

3 (Exhibit published.)

4 Finally, sheriff's given his cease and desist and
5 this is the way it has to go. Dan Love clearly at some point
6 went along with that because he goes to the gate, brings
7 Ryan -- or brings Dave Bundy up. You see the meeting they have
8 where, you know, You leave. You leave. You leave in an hour.
9 You have an hour to leave. And Dan Love's like, We have all
10 this stuff. You know, You have an hour to leave. You need to
11 send somebody out now to show -- show us that you mean it,
12 to -- to -- you know, calm the crowd down. You have an hour.
13 An hour. Dan Love, all he can say is we'll go as fast as we
14 can and I can't, under authority of the United States
15 government, allow you to release those cattle. I'm not giving
16 you permission to do that. You do it at your own risk.

17 (Government Exhibit 93 published.)

18 Some of the BLM and Park Service officers retreat.
19 They don't fulfill their duties that day. They don't finish
20 what they went out there to do, impound the cattle, or even the
21 cattle they impounded, all the work that went into that, gone.
22 Still in fear, they give an hour to leave. They're told hour
23 to leave. They pack up frantically. They're still scared.
24 They're still in fear. You've heard the testimony. They all
25 pack up as much as they can. They get in their cars, and

1 trucks, and they leave, en masse, led by Metro. Now law
2 enforcement is being escorted by other law enforcement to
3 protect them. Unheard of. Not one law enforcement officer
4 said they've ever heard of that. They drive to Mesquite. You
5 heard Sergeant Jenkins say, "At that point we had our rifles
6 out. We still felt there was a threat. There's cars weaving
7 in and out of the convoy." They collect their stuff; they head
8 back to Vegas.

9 (Exhibit published.)

10 Ryan Bundy (indicating), after giving his hour, you
11 got to leave, you got to leave in an hour, comes down and tells
12 the crowd the west has now been won. We're getting the cattle.

13 (Exhibit published.)

14 And conveniently, a sign comes out, "The West Has Now
15 Been Won (indicating)." Still on the bridge. Defendant
16 Stewart, defendant Parker, defendant Lovelien, defendant
17 Drexler, but it wasn't about the cows. But they're there.
18 Mission accomplished.

19 Before we -- yeah, go ahead.

20 (Government Exhibit 83 published.)

21 So, there's a few things. Mr. Parker, Mr. Drexler,
22 and Mr. Stewart are still on that bridge, still with their long
23 guns.

24 Mr. Parker sat up there and told you, "Oh, I was
25 being cocky, I was annoyed." I was annoyed that this guy with

1 a camera came up to me and had dare ask me about what we just
2 saw. He's annoyed, while at this time the BLM officers and the
3 victims of his crime are having to pack up in an hour, but he's
4 annoyed. And he was so emotional about this whole event.
5 Clearly shown in this video.

6 Get on a bridge. Show 'em force. Do it in Texas.
7 Clearly he had did some other research about somewhere else
8 that somebody should show force to the federal government. Get
9 on a bridge and show 'em force. That's why he came to Nevada.
10 That's why all six of these defendants came to Nevada, and
11 that's what they did. But it wasn't matching force. You heard
12 Mr. Parker talking about, in his UCO, well, before I came, I
13 heard that 200 people and 200 people and, oh, it's a good match
14 of force. It was overwhelming force. That's how they got the
15 cattle, overwhelming force.

16 It was good to have women and children in the wash.
17 It's probably the only reason they didn't get gassed. First
18 off, he said "gassed" and as we'll hear, Mr. Stewart also says
19 "gassed" in his video, and maybe that makes sense because at
20 12:18 Ranger Johnson said, as we've heard, "less lethal," we've
21 been authorized to use "less lethal." He says it once. "Less
22 lethal." And then four times, directly after that, he says
23 "pepper ball," "pepper ball," "pepper ball," "pepper ball." He
24 didn't say "shoot." The evidence is uncontroverted that they
25 never said "shoot." They never say we're going to shoot you if

1 you take one step forward.

2 Right in time. Close in time. The closest thing we
3 have from defendant Parker, I think they would be saying they
4 threatened to shoots those kids. Can you believe that?
5 Where's the sheriff? We got to get the sheriff. They're going
6 to shoot kids. No. You know why it was good to have women and
7 children in that wash? You heard those officers testify, they
8 couldn't engage. There was unarmed people -- it's not just
9 women and children; it's unarmed people. It was the people
10 that they did not view as the threat, the assaulters. It's
11 because those women and children that unarmed people were
12 essentially human shields. They were there so the militia
13 could do Cliven Bundy's bidding. And if they weren't there,
14 who knows?

15 And this goes to this whole notion of BLM. BLM, the
16 big bad BLM. You saw 14 BLM officers testify. Judge has given
17 you a credibility instruction. You use that. They are victims
18 in this case. They weren't investigating the case. You heard
19 from Agent Seyler and Agent Willis, Agent Draper, the FBI
20 agents investigating this case. The special agents you heard
21 from, they're law enforcement, but they're victims, and they
22 told you about their fear. They're real people. They're not
23 some faceless, BLM-behind-the-gate, evil people.

24 Special Agent Michael Johnson, former secret service
25 agent, entrusted to guard the president, his dream job, he left

1 the Secret Service, he told you, because he wanted to work for
2 the BLM on public lands in Utah and that spot came open and he
3 went there because that's what he wanted to do. He absolutely
4 felt threatened and was absolutely concerned about the safety
5 of his fellow officers.

6 Ranger Logan Briscoe feared for his life and for the
7 lives of his fellow officers. It affected how he performed his
8 job after April 12th, 2014.

9 Special Agent Mark Brunk said this was the second
10 most scary experience that he's ever had as a law enforcement
11 officer, and the first one was an officer involved shooting.

12 Ranger Patrick Apley, feared for his safety in terms
13 of the level of -- on a scale of 1 to 10, 10 being the highest,
14 said 7 and compared it to his combat experience when he served
15 in the military. Affected how he performed his job after
16 April 12th, 2014

17 Officer Tara McBride, the most threatened I've ever
18 felt in my law enforcement career.

19 Ranger Keith Whitworth. "It's the worst situation
20 I've been in. Scariest situation I've been in in my whole
21 career."

22 Special Agent Rand Stover, "It did cause me to fear
23 for the safety of especially my fellow officers, but also
24 myself." Risk assessment was at a 10 for violence, scale of 1
25 to 10.

1 Ranger Greg Johnson, who stood up there, dehydrated,
2 had to go to the medical tent afterwards, giving those
3 commands, giving those commands, giving those commands, feared
4 for his safety. "I really felt like I was, at best, going to
5 get shot, possibly going to die that day." And he told the
6 FBI, "We were fucked."

7 Special Agent Robert Shilaikis, he served in four
8 different war zones he told you. "I was absolutely fearful for
9 my own safety. I was absolutely fearful for the law
10 enforcement officers that were down in that wash. One of the
11 worst positions they could have been in." The fatal funnel.
12 Emotionally impacted him after this event.

13 Brandon Novotny, feared for the safety of his
14 officers -- excuse me, Officer Brandon Novotny, feared for the
15 safety of himself and officers and ranked the situation as a 10
16 from 1 to 10, 10 being the highest in terms of danger that he
17 felt to himself and his fellow Officers.

18 Ranger David Keltner, he didn't have time to be
19 afraid. "I had time to worry about making sure that I had made
20 good decisions so that we could try to get out of there without
21 dying. It's been hard. I think about this a lot and sometimes
22 it affects my ability to focus on other things."

23 Special Agent Adam Sully, standing in the wash
24 thinking about leaving behind a son and a daughter.

25 Special Agent Carpenter, called by the defense, on

1 redirect -- or cross, he testified similar. Special Agent
2 Swanson also as well.

3 You heard what the sheriff thought. You heard what
4 Sergeant Jenkins thought, he was scared. Been working for
5 Metro for 29 years some of the biggest events in Las Vegas.
6 The Saturation Team. He's definitely not some Keystone cop.
7 None of these officers were. And the implication that they
8 were is ridiculous.

9 They were experienced law enforcement officers, some
10 who have served in the military, some who have served in the
11 Secret Service, other law enforcement officers agencies, and
12 they were carrying out court orders.

13 If you don't believe them, Captain Thomas Jackson, he
14 felt fear for his safety and his officers on that day, NHP.

15 "Question: Did the fear rise to the level of you
16 thinking that you or your officers might lose their lives out
17 there?

18 "Answer: Yes, it did."

19 Became emotional after the event and pulled his
20 patrol car over and cried. It was the most frightening day of
21 his life. He's third in command now of NHP.

22 Sergeant Serena, on the bridge, interacting with
23 Captain Lovelien and Mr. -- and defendant Engel. Feared for
24 his safety. To this day he gets a pit in his stomach when he
25 travels through that area.

1 But, it's a little bit different. Unlike, maybe
2 others, these were all law enforcement officers, and they
3 train. And you heard, you know, almost all of them that
4 testified, when we called them, asked them about their
5 training, maybe at some point they're like, okay, I know they
6 go to FLOOD SEA, I know they go to FLOOD SEA, I asked them that
7 question, but their reaction to these situations is based on
8 their training and their experience, and you heard all the
9 training and experience they have. Despite the fear they had
10 and despite the fact that they were outnumbered, they were
11 trained law enforcement agents and they continued to do their
12 jobs and their training kicked in. You heard them.

13 What are we going to do if the horses come in? Are we
14 going to jump in the back of the trucks? Are we going to get a
15 rumbler? Do we have plastic cuffs if people cross the thing?
16 All kinds of discussion about whether to use pepper ball or not
17 pepper ball and used their experience to make the decision not
18 to. Contemplating a medical setup and do we need a triage
19 area. You know, again, Officer McBride pulled back, but they
20 didn't leave, because that's not what they're trained to do.
21 They're not going to get in their cars and run away. Some law
22 enforcement officers do. They face a situation and try to make
23 it the best they can, and this was an impossible situation. It
24 was impossible for those federal law enforcement officers
25 behind that gate, it was impossible for those highway patrol

1 officers on that bridge, it was impossible for the sheriff, it
2 was impossible for the Metro Saturation Team, it was impossible
3 for the SWAT Team that wasn't deployed because it wouldn't have
4 mattered. It would have escalated things to God knows what.

5 (Exhibit published.)

6 Not about the cows. But Eric Parker, "We have cows,
7 happy cows, free cows, American cows raised on an open range,
8 not a cage. It's over. We won."

9 Eric Parker. "Feds get scared when you got there and
10 backed off in?"

11 Thumb. Thumbs up.

12 Down below this in Exhibit 238, which you can look
13 at. "We won. It's over."

14 "Oh, it took a standoff," is where it says on 238.

15 Todd Engel, right after the BLM is leaving, or right
16 when the BLM is leaving.

17 (Government Exhibit 304 published.)

18 Any doubt about his intent that day? Wasn't just
19 being angry. Combine that with all the other evidence.

20 His own words. "BLM lost and has backed down due to
21 the overwhelming force of the people and our arms." Not our
22 signs. Not our flags. Our arms. "We win. Cattle being
23 released as we speak," but it wasn't about the cattle. If they
24 don't trouble -- "If they don't, trouble will start. Again, it
25 was very close to an exchange of gunfire. We rushed their

1 barricades." We. We. We. Because they were the aggressors.
2 They were the attackers. "We rushed their barricades with
3 armed people" -- armed people. Not people with signs. Not
4 people with flags. Armed people -- "and cowboys on horseback.
5 Crazy."

6 "We win." And then pardon the language on his little
7 glorification video.

8 Steven Stewart.

9 (Exhibit published.)

10 Again, threatening to shoot chemicals in the crowd.
11 Not threaten to shoot women and children. Not, oh, my God, I
12 thought women and children were going to die. His
13 demeanor doesn't seem like he's real upset that he almost saw
14 women and children gunned down in the wash.

15 "We pushed forward." "We pushed forward." Again,
16 they're the aggressors.

17 "We, on the other side." "They fought against us."
18 Sergeant Serena, who is out there directing traffic, completely
19 in the open wearing a vest, exposed to all of this, doing the
20 best he can to just keep the situation de-escalated. How did
21 he fight against them?

22 "It's been a long day. What's up? Well, I have a
23 little earlier with a really high-powered scope. Show me F'ing
24 awesome."

25 Steven Stewart.

1 "First they said they were going to release
2 everything and leave." We know that's not what happened.
3 "Then they held the gates to Gold Butte and threatened us with
4 chemicals." Not bullets. "Then we pushed forward and they had
5 to back off." We pushed forward. "They are releasing the cows
6 now. BLM is leaving."

7 And again, even if this (indicating) was true --
8 which, of course, it's not and no reasonable person could have
9 thought that -- it wouldn't have mattered, because when they
10 got there, Mr. Stewart got there, BLM's there, law
11 enforcement's there. Go away. Back off. Maybe they did --
12 even if they were, for sake of argument, they were intending to
13 leave within an hour and they said leave now, we need to pack
14 up, federal law enforcement officers, giving lawful orders that
15 as the judge has instructed you, you can't resist, and you sure
16 can't resist by the barrel of a gun.

17 Not about the horses, but Mr. Stewart posts the
18 cowboys going and getting the horses.

19 The next day, Todd Engel.

20 (Government Exhibit 447B published.)

21 Defendant Engel's own words. Although we know Cliven
22 didn't say get your guns. That's how Mr. Engel wants it to be
23 said. This is where the glorification starts, the next day,
24 all six of these defendants. Let's glorify what we did,
25 because somehow this is great.

1 Next day. He's not eating steak by a pool at a hotel
2 in Mesquite; he's tacked out, at a rally, at the rally site, by
3 Cliven Bundy's ranch, with Cliven Bundy, giving his story of
4 the battle from the day before, how they overcame and
5 overmatched the BLM with force.

6 "What you don't see is there was another 150 of us
7 with guns behind those cowboys." His own words.

8 (Exhibit published.)

9 Rick Lovelien. "Heads-up. I have returned home for
10 the time being the Bundy -- from the Bundy ranch. I will
11 update what I can as I can. The operation" -- operation -- the
12 plan -- "is still ongoing in Nevada and although the federal
13 agents have surrounded -- or surrendered their position" --
14 acknowledging the federal agents surrendered and withdrew --
15 "the area is still active" -- whatever that means -- "and we
16 still have boots on the ground." We. "We have boots on the
17 ground. Security is our top priority, as always."

18 You'll hear in Count Two -- because there's two
19 different conspiracies -- this keeps going. It keeps going.
20 They want to encourage people, whether it's social media,
21 whether it's Long Bow videos, whether it's interviews to A, B,
22 and C, to encourage people to stand up and have the threat out
23 there so people don't go back to Bundy ranch, so BLM doesn't
24 enforce those court orders, and that they get what they want.

25 (Exhibit published.)

1 "Please note," again -- again, Mr. Lovelien --
2 "Please note" -- April 14th -- "personnel are still needed at
3 the Bundy ranch for ongoing security operations. Contact me or
4 Ryan Payne, OMA for more information."

5 (Exhibit published.)

6 Greg Burleson. Tagged in Mr. Zanna's photo -- or
7 message. "My camera went crazy on me. Sorry. Went on this
8 weird out-of-focus mode but we were there and glad we met in
9 person finally. Luca."

10 (Exhibit published.)

11 Greg Burleson shared a link. "I faced -- I faced off
12 with heavily armed federal agents this weekend. What did you
13 do, go shopping?" And glorifying, showing that the reason they
14 went there is to fulfill their goal or their desire to face off
15 with the federal government and again, they found the right
16 place, at the right time, at the right moment where that could
17 happen.

18 (Exhibit published.)

19 Mr. Drexler. Posts a Reuters article. "U.S.
20 officials ended a standoff with hundreds of armed protestors in
21 Nevada desert on Saturday calling off the government's roundup
22 of cattle it said was illegally. But it looks like we may have
23 to go back." Not, it was the worst experience of my life. I
24 thought someone was going to die in that wash. "Looks like we
25 might have to go back."

1 (Exhibit published.)

2 Steven Stewart. Posting about Judge Lloyd D. George.
3 "These people think they own us." Federal judge.

4 (Exhibit published.)

5 Exhibit 5, federal court order (indicating).

6 If you go to bed, there's no snow on the ground and
7 you wake up and there's snow on the ground, it snowed. Lloyd
8 D. George. Lloyd D. George and the court order (indicating).

9 Don't interfere. BLM's there. They can take the
10 cattle.

11 (Exhibit published.)

12 Rick Lovelien.

13 "Please note this money is going directly to the
14 militia at the ranch and not to the Bundy family." Still
15 actively engaged in the conspiracy getting money -- money to
16 the Bundy ranch for the militia and the armed people that are
17 still there.

18 (Exhibit published.)

19 Scott Drexler.

20 It's a picture of him from the 12th. "Careful.
21 Bridges are choke points," someone comments on this picture.
22 Defendant Drexler: "That's why we used them to shut down the
23 freeway." Again, just like Cliven Bundy said, just what the
24 plan was.

25 (Exhibit published.)

1 Steven Stewart

2 "Guys, I only went there for the weekend. We helped
3 Cliven Bundy get his cattle back." Get his cattle back.
4 "Straight there. Straight back. Two hours of sleep in
5 between."

6 How long he was there is irrelevant. Once he joins
7 the conspiracy it doesn't matter how long he's in there as the
8 Court has instructed you. So the fact that they were on the
9 ground for less than 24 hours, irrelevant.

10 (Exhibit published.)

11 Rick Lovelien. Someone asks him, "Nothing much.
12 What you been doing?"

13 "Chasing off federal agents."

14 Now we're well after the 12th; 23rd. Still living in
15 the glory of their battle with the federal government.

16 (Exhibit published.)

17 Greg Burleson.

18 The 29th of April, "Attention national malitias, Oath
19 Keepers have been charged with desertion among other charges
20 and have been banned from the Bundy ranch. We still need boots
21 on the ground at the ranch. There are now 20-man tents set up
22 for visiting militia."

23 Still following it. Still making sure the BLM
24 doesn't come back. Still protecting Cliven Bundy.

25 (Exhibit published.)

1 This picture, which we've seen (indicating),
2 Mr. Burleson posts it, thanks his cousin for finding it for
3 him. "Never got this guy's name. He's one of the guys that
4 was on the overpass skirt with me as we flanked the BLM to
5 their right." Which, as you've seen, the evidence shows they
6 flanked the BLM to the right.

7 (Exhibit published.)

8 5-8. Now we're into May. "The party is over but we
9 still need people at the ranch for support and to build a
10 garrison and yes, it was a rush." It was a rush. Not, this is
11 horrible. I'm so confused and I didn't know what federal
12 agents were going to do. "It was a rush." It was a rush to
13 match force, to overwhelm force with the federal government, to
14 get them to do what we wanted them to do.

15 (Exhibit published.)

16 Greg Burleson.

17 "They just don't get it, okay? Attention FBI, arrest
18 just one militia person for the Bundy situation" -- the Bundy
19 situation -- "and the rest of us will burn this whole damn
20 thing to the ground. Understand? We, the people, have the
21 right to defend our people against one last -- defend our
22 people. Again, one last warning. Arrest even one of the
23 militia from the Bundy ranch standoff and we will burn you to
24 the ground, that includes your wives and children."

25 Put it out on social media. Again, trying to defer

1 law enforcement from doing anything, anything with the Bundy
2 ranch.

3 (Exhibit published.)

4 Gregory Burleson.

5 "Protesting does nothing." Protesting does nothing.
6 All caps. "The only power they understand come from the barrel
7 of a gun and I, and some true patriots, in that gully on
8 April 12th, when we drove armed federal agents from the Bundy
9 ranch. But hey, if protesting makes you feel good, do it.
10 They like it like that."

11 Speaks for itself.

12 The Long Bow videos. As the Court instructed you,
13 you heard, the FBI did an undercover operation. Perfectly
14 permissible. Their own words.

15 (Government Exhibit 333C published.)

16 Two things. A), acknowledges that the Internet is
17 who knows what you see on there, what's true and what's not
18 true. So, it dispels this notion of all this intensive
19 research. And two, you know, match force with force. But I
20 don't want violence. It's the whole double-talk of all of
21 these defendants, and Cliven Bundy. We don't want violence.
22 We have 200 people matching you, or more force, but you do what
23 we want, you do what we think is constitutional, sheriff, you
24 do what we want, I want to put some legs under you to do what
25 we want, then it's okay. Then I don't want violence, but you

1 do what we want.

2 It's same rhetoric Santilli was giving Love at the
3 gate -- or Love up at Post 1 on the 11th. You know, we don't
4 want violence, but what are you going to do when people show up
5 and they want X, Y, and Z? Are you going to let your people
6 retreat?

7 Go to the next slide. Sorry.

8 (Government Exhibit 333C published.)

9 So, he was there, as has been pointed out, less than
10 24 hours but he knew enough to know that all these other groups
11 are here and it's great, we're under the banner of freedom, but
12 I don't want to be a leader, but was there long enough to
13 observe in-fighting with militia.

14 (Government Exhibit 333C published.)

15 Again, could be Internet stuff. Maybe not true, but
16 this is what I'm basing my decision to put my gun in my car and
17 my two buddies and drive 10, 12 hours from Idaho to Nevada to
18 stand off, face off, show force with the federal government.

19 He knew about the court orders; he just didn't care
20 about the court orders. He cared about showing force, matching
21 force, standing up for what he thought was constitutional, or
22 what he thought -- Mr. Parker -- or defendant Parker thought
23 was overreaching. That had been decided in the courtroom.

24 (Government Exhibit 333C published.)

25 Court orders. Fiat. Not true. Could have been.

1 Huh? Okay. Then you go to court and you litigate the court
2 orders if they're "illegal" or appeal it or what you've heard
3 from Mr. Petrie that Cliven Bundy did, but once again, just
4 nonsense.

5 (Government Exhibit 333C published.)

6 "As surrounded as they were." As surrounded as they
7 were. Acknowledging they were surrounding. "Weren't going to
8 make it home?" Once again, law enforcement had one option,
9 which was to back down and release the cattle, because there
10 was no other option.

11 (Government Exhibit 333C published.)

12 But it wasn't about the cows. You know, it probably
13 wasn't, but it was the result of standing off with the federal
14 government and facing off with whatever perceived misdeeds
15 Mr. Parker thought the federal government was doing, which, of
16 course, is no defense, because you can't resist lawful law
17 enforcement actions.

18 Mr. Drexler.

19 (Government Exhibit 334B published.)

20 Possessing guns to show to law enforcement so they'll
21 do what you want because they think they might get hurt.

22 (Government Exhibit 334B published.)

23 Again, that's the conspiracy and that's the
24 double-talk. We're there with guns. We want them to know
25 we're there. We're not happy with what you're doing, now it's

1 in your hands. What are you going do? We dare you. Women and
2 children in the wash. Unarmed men in the wash. What are you
3 going to do? We have guns and we're not happy with what you're
4 doing.

5 (Government Exhibit 334B published.)

6 No different than being in the armed forces.
7 Traveling to Bunkerville, having Cliven Bundy say "go get my
8 cattle" is like being in the Army.

9 (Government Exhibit 334B published.)

10 "We did what we came here to do when the cows came
11 under the underpass." It couldn't be any more clear. That was
12 the conspiracy. That's why they were all there. They had to
13 do it by assaulting, threatening, obstructing, extorting.
14 That's when it meant the most, when the cows got released,
15 whether they care about the actual physical cows or not.

16 (Government Exhibit 334B published.)

17 "You can't do the same thing through voting."
18 Apparently you can't do the same thing through court orders
19 either, because those don't matter. It just matters what
20 defendant Drexler and the other defendants and the other
21 militia think and then we'll just go do it with our guns. You
22 can't do it through voting.

23 Mr. Burleson.

24 (Government Exhibit 335D published.)

25 That speaks for itself. That's how you can

1 clearly -- that alone would tell you and provide beyond a
2 reasonable doubt that Mr. Burleson joined the conspiracy
3 knowing of its objectives, even though he wasn't there when
4 Cliven Bundy said go get the cattle.

5 (Government Exhibit 335D published.)

6 That's exactly what happened. That's exactly the
7 evidence. They were boxed in and couldn't go anywhere but
8 back.

9 And we know he had a radio because Sergeant Serena
10 told you he had a radio and Sergeant Serena is jealous of his
11 radio and it was on the Metro scanner channel.

12 (Government Exhibit 335H published.)

13 "Retrieve Mr. Bundy's cattle for him." They had to
14 back up. That was the goal. He knew it. Knew it when he got
15 in the wash. He joined the conspiracy. He's a member of the
16 conspiracy.

17 (Government Exhibit 335I published.)

18 Guarding, and dead bodies, and coming into Bundy
19 ranch, continuing the glorification.

20 (Government Exhibit 335I published.)

21 Exactly what happened. Protestors, a lot of the
22 unarmed people, horses in the middle. I mean, the people with
23 guns, blue shirt, you saw a lot of blue shirt, but, Burleson
24 flanked them, other five defendants on the bridge with others.
25 You had the militia guys up -- you saw on the right-hand side

1 above in that one picture of Drexler. You had the other ones
2 down prone out. They were boxed in. They were flanked.

3 Eric Parker.

4 "That's what I kept saying when people kept calling
5 me The Bundy Sniper. My buddy Steven Stewart had to relay to
6 me what was going on through binoculars. Not much good at that
7 distance with open sights. Now, Steve, he's got balls. Heads
8 up above the concrete telling me exactly what they were doing
9 after the snipers had been green lighted."

10 Mr. Parker said he was mistaken about binoculars.
11 It's irrelevant whether Mr. Stewart had binoculars or not; he's
12 relaying what's going on to Mr. Parker when he was in a prone
13 position with his rifle pointed at federal law enforcement
14 officers. What else would he be doing?

15 (Exhibit published.)

16 This is afterwards. No remorse. Taking the glamour
17 shot. Fulfilled the desire to stand off and show down the
18 federal agents.

19 Testified that that's Zanna (indicating), you also
20 heard Mr. Burleson communicate with in his Facebook. So a lot
21 of these militias, people just keep crossing paths.

22 That's the sort of vacation photo shop -- photo shot.

23 (Exhibit published.)

24 November 20th, 2015. Quite a bit after. Mr. Parker
25 doing his ongoing weekly tribute. "Lo, do they take the call

1 to me, they bid me to take my place among them, in the hallowed
2 halls of Valhalla where the brave shall live forever." Similar
3 to Mr. Burleson quoting the halls of Valhalla in the slide we
4 showed you earlier, which is in evidence. Just more
5 glorification.

6 (Exhibit published.)

7 This speaks for itself. Mr. Parker admitted on the
8 stand, on the stand, he did this. Dicks. Dicks. Dicks.

9 Also wouldn't admit even to this day that that's
10 federal law enforcement officers, which is beyond doubt.

11 "Always let your opponents take the field first.
12 That's one of the arts of war."

13 "Same idea. I just wrote down a little different,"
14 says Mr. Parker.

15 "I always thought one would want to pick the ground
16 they fight from."

17 "That's the hard part. Pick the battlefield, but let
18 them take it first."

19 "Let them take the battlefield first." They came to
20 the BLM, ladies and gentlemen, not vice versa. They were the
21 aggressors, with guns.

22 (Exhibit published.)

23 February 17th, 2016. "Resist."

24 He testified he didn't make this, someone else did,
25 but it's updated his cover photo.

1 "Resist." Not, oh, I had to defend poor women and
2 children because of the out-of-control, these crazy law
3 enforcement officers. "Resist." Because that's what he was
4 doing, and that's what the rest of the defendants were doing,
5 and that's what the rest of the armed gunmen were doing. They
6 were resisting by overwhelming force.

7 Todd Engel.

8 (Government Exhibit 303B published.)

9 (Counsel conferring.)

10 I apologize.

11 Don't have the exact date, but I believe it's January
12 2016, Mr. Engel.

13 (Government Exhibit 303B published.)

14 He's willing to do it again. Out there. Glorifying
15 it. Living the dream. Backing down federal agents.

16 (Government Exhibit 303E published.)

17 Again, glorification. Again, another example of the
18 double-talk. "Let them fire first." They're going to do what
19 we want them to do though, because we have guns. Overwhelm
20 them.

21 Finally, Todd Engel on the day he was arrested.

22 (Government Exhibit 209C published.)

23 "Cut the head off the resistance."

24 THE CSO: Your Honor?

25 THE COURT: Yes.

1 THE CSO: We need a break.

2 THE COURT: Okay.

3 We'll go ahead and take our lunch break now. It's
4 12:45. Let's take a 45-minute break and plan to be back here
5 by 1:30.

6 I do remind the jury that during this recess you are
7 not to discuss this case with anyone nor permit anyone to
8 discuss it with you.

9 Do not read, or listen to, or view anything that
10 touches upon this case in any way.

11 Do not attempt to perform any research or any
12 independent investigation, and please do not form any opinion.

13 We'll go ahead and stand for the jury and after they
14 exit, then everyone else may take their lunch break as well and
15 we'll be back here at 1:15.

16 (Jury excused from courtroom.)

17 COURTROOM ADMINISTRATOR: Off record.

18 THE COURT: All right. 45-minute break. Off record.

19 (Recess was taken at 12:48 p.m.)

20 (Outside the presence of the jury at 1:45 p.m.:)

21 COURTROOM ADMINISTRATOR: All rise.

22 THE COURT: Thank you. You may be seated.

23 Before we bring in the jury and finish with the
24 Government's summation, do we want to address the other issues
25 regarding the defense argument so we don't have to take another

1 break in between?

2 MR. TANASI: I think that would be great, Your Honor.
3 That's what I was going to ask for.

4 THE COURT: Okay.

5 MR. TANASI: I know where we left off kind of with
6 the historical quotes. Again, you know, just so the record's
7 clear, I'm not arguing that those quotes are evidence. I'm not
8 arguing that those quotes are necessarily Gospel in any way.
9 All I'm doing is providing kind of context to explain my
10 client's similar quotes. My client makes quotes that are
11 protest oriented and that's not a new concept. That's
12 something that's been done throughout history. And that's
13 essentially the transition that I was looking to make. I
14 wasn't trying to necessarily -- and I won't say that my client
15 is Benjamin Franklin or my client is, you know, Alexander
16 Hamilton. That's not the case. It's just that these quotes
17 show that my client's similar quotes, like "Headed to Nevada.
18 Going to stand up with my fellow countrymen against a corrupt
19 government," that is something that is not criminal in nature.
20 That's my whole argument. And so I think that the contextual
21 quotes from history do just that.

22 THE COURT: Mr. Myhre?

23 MR. MYHRE: Well, Your Honor, the same argument as
24 before, but also, the third one especially with any reference
25 to race is clearly improper and prejudicial, but, again, the

1 overarching theme here is that these are analogies toward jury
2 nullification. They're analogizing toward the Revolutionary
3 War, toward, you know, civil rights movements, which this is
4 not and that's -- that's our objection to the contextual quotes
5 that are being raised here. The context is within jury
6 nullification. It's not advancing any other -- any type of
7 proper argument. That's our objection.

8 MR. TANASI: Your Honor, I would say that it's not an
9 attempt at nullification. It's attempt at putting my client's
10 statements into a frame of context.

11 THE COURT: All right. So, placing the statements
12 that there is evidence already that's been admitted, that your
13 client said or saw or posted or whatnot, explaining what those
14 statements meant or -- or how they should -- could be received
15 is one thing, but -- and I will permit you to do that, but if
16 you go the next step, which is to say -- to make that
17 connection, that revolutionary speak or those things are legal
18 and are a legal defense to this charge, I think then you'd be
19 crossing the line.

20 MR. TANASI: So --

21 THE COURT: So as far as you can explain what the
22 statements are that he placed on his Facebook page, what they
23 mean, what the context of it is and things of that nature, but
24 then if you go that next step, to try to connect it to say that
25 it is a legal defense to this case, the law doesn't support

1 that and so you can't argue jury nullification. You can't
2 argue that therefore it's not illegal because it creates a
3 defense that the law doesn't acknowledge.

4 MR. TANASI: Understood, Your Honor. And I
5 understand kind of --

6 THE COURT: Because I want to give you leeway, but --

7 MR. TANASI: No. No. And so then what is the
8 Court's ruling with respect to the historical quotes then? Am
9 I allowed to reference those quotes in my closing? That's
10 what -- I mean, I just don't --

11 THE COURT: It depends on how you're referencing
12 them. I think that's the whole context. At the time elicited
13 if you're using them in order to argue that a legal defense
14 exists, which the law doesn't recognize, then you can't use
15 those legal quotes that way. If you're using the legal quotes
16 in some different way that is appropriate, then of course that
17 would be admissible. So it depends on how you're using the
18 quotes.

19 MR. TANASI: Understood.

20 Thank you, Your Honor.

21 MR. LEVENTHAL: Your Honor, I -- just briefly. I'd
22 like to renew my sort of argument before on what I wanted to
23 use in my closing, which would have been an inference or an
24 explanation to what my client indicated on Long Bow, that he
25 came down over the federal overreach as well as the First

1 Amendment zone and the Court indicated to me that I'm not
2 allowed to use or show a video of the three different things
3 that he meant by that.

4 Mr. Dickinson, in his closing, just told the jury,
5 without any evidence, the first 20 minutes, within the first 20
6 minutes, without any evidence that my client anywhere said the
7 reason he came down there was to show force. Okay. So without
8 any evidence, of anything that my client's done, he told --- he
9 gave them his reasoning. And my client, on Long Bow, says
10 federal overreach and First Amendment and it's the videos that
11 he saw. And so, I think to put that in perspective, I think I
12 should be able to show those videos, like I -- they're already
13 in, they're already in evidence, and put that in perspective
14 because it's not show of force, with him, but it was all lumped
15 into one without any other evidence that's come forward that
16 that's why he came down, because that's not what he said in his
17 Long Bow. So I would just renew my argument that I should be
18 allowed to be able to talk about the three things that on --
19 the three videos that he saw. They're little snippets. I'm
20 not playing the whole thing. They're already in evidence and I
21 should be able to, on closing, make inferences and arguments
22 towards them.

23 THE COURT: All right. The ruling was not that you
24 could not show video that is in evidence; the ruling was that
25 you can't argue facts which are not in evidence. So you can't

1 argue that your client saw something if there's no evidence
2 that he saw it. I think that -- that was the ruling. I'm
3 sorry if that wasn't clear, but there's no ruling that you
4 can't show something that's already been admitted into
5 evidence.

6 MR. LEVENTHAL: Right. And so, he -- what -- on
7 Long Bow, the question was, "Why did you go down there?" It
8 wasn't specific. It was federal overreach, which included, and
9 he said videos. It wasn't specific and that's sort of where
10 I -- I think I'm getting hung up on is maybe because it wasn't
11 specifically, oh, I saw that, he saw specific videos like
12 Margaret being taken down, and the Tasing. All of that stuff
13 has come in. So he wasn't specifically this is exactly, but he
14 wasn't asked the question on Long Bow specifically.
15 Specifically he said federal overreach, which included, in his
16 mind, the videos that he saw and he said First Amendment zone.
17 That's why he went down. But to suggest now that he went down
18 to show force without showing any Facebooks or anything prior
19 to that, I think that leaves him -- particularly Mr. Drexler --
20 in a position that he has to answer to what does he mean by
21 federal overreach because now they're -- the Government has
22 clearly indicated it's only for a show of force and there's not
23 one word of Mr. Drexler prior to that on why these six men went
24 down there.

25 So, and I understand what the Court's ruling but --

1 THE COURT: All right. So you cannot say
2 definitively to the jury that Mr. Drexler watched these videos
3 because there's no evidence that he, in fact, watched these
4 videos.

5 MR. LEVENTHAL: Right. But I can say --

6 THE COURT: You can offer to the jury explanation for
7 what his statement might be referring to, but you can't
8 definitively say that he actually saw those videos.

9 MR. LEVENTHAL: Fair enough. If I --

10 THE COURT: We don't know that he saw the videos. I
11 mean, that's got to be clear. We don't know that he saw them,
12 but I think that you have the right to explain or try to
13 explain to the jury how they should interpret the statement
14 that he made about what does research mean, but you can't
15 actually say he did something if there's no evidence that he
16 did it.

17 MR. LEVENTHAL: Fair enough.

18 THE COURT: Anything else, Mr. Myhre?

19 MR. MYHRE: Just as a matter of housekeeping,
20 Your Honor, one of the videos that Mr. Leventhal discussed with
21 me this morning, we do not show as being admitted into
22 evidence. That's 5007D, which was the -- I believe it was a
23 video showing the exchange or the encounter with
24 Margaret Houston and one of the agents, or one of the officers.

25 THE COURT: Well, if it's not admitted into evidence,

1 then it can't be shown to the jury. If it is admitted, then it
2 can.

3 MR. LEVENTHAL: Correct. Obviously. I checked
4 with --

5 THE COURT: So we'll clarify that. What was the
6 number again?

7 MR. MYHRE: 5007D, as in delta.

8 THE COURT: Okay.

9 COURTROOM ADMINISTRATOR: And that one is not
10 admitted. That one is -- 5007D was marked with Agent Stover,
11 but it was never admitted.

12 MR. LEVENTHAL: No. No.

13 What number is it, Jess?

14 MR. MARCHESE: That's the one we had the issue with
15 and then I tried to admit it.

16 MR. LEVENTHAL: No. No. No. The one that you got
17 in through --

18 MR. MARCHESE: Oh, the one I got -- 5006C, as in
19 Charlie I believe is what I have it as.

20 MR. LEVENTHAL: 5006C, as in Charlie.

21 COURTROOM ADMINISTRATOR: That would be admitted.

22 MR. LEVENTHAL: That's admitted?

23 COURTROOM ADMINISTRATOR: Yes.

24 MR. LEVENTHAL: So that would be that video.

25 MR. MYHRE: Okay. And then there is -- on -- on

1 5006C there were portions of that that were admitted through
2 Agent Willis, not the -- not exhibit in its entirety, and I
3 think that -- which includes, I believe, what they want to show
4 now, includes an interview of one of the supporters, Bundy
5 supporters after the encounter between the officers and
6 Ammon Bundy on the April 9th. That was not -- at least our
7 understanding, was that portion was not admitted.

8 There's also a marking on the video, a circle with
9 the word "lethal" written over it. There's an agent or an
10 officer standing with a long gun. There was no evidence that
11 that was lethal. No evidence of -- of it being -- it's an
12 officer at the -- I believe either it's Lowe or Sloan, I can't
13 recall not having looked at the video, but so we would object
14 to the markings on there as that's not in evidence. Same
15 exhibit.

16 THE COURT: Is this a different one or are you
17 talking -- the one with the lethal markings, is that also part
18 of 5006C or is that something --

19 MR. MYHRE: That's my recollection, Your Honor.

20 MR. LEVENTHAL: Yes, Your Honor. The 5006C, a
21 portion of it came in with Agent --

22 MR. MYHRE: Stover.

23 MR. LEVENTHAL: -- Stover and then the rest of it,
24 the whole -- the whole video came in through Mr. Marchese and
25 Mr. Parker. However, Mr. Parker was only shown part of the

1 video, but then it was objected to and he said he saw the video
2 and it all came in, but Mr. Marchese chose not to play the
3 whole video. So, it hasn't been seen, but it's been admitted
4 in its entirety.

5 And there is a -- there is a short -- and again, I'll
6 go back to there are things on there regarding dead cows and
7 things, and that's not what we're getting into. So, you know,
8 I'm not even touching that part of it. There's just one part
9 that goes after sort of the dog bite, if you will, and the
10 Tasing that they -- a gentleman is being interviewed who said
11 that that was my aunt who is being taken down.

12 And -- and I put on there, the circle with the
13 "lethal." If that needs to come off, that needs to come off,
14 but I just figured the Government has brought in numerous
15 pictures with, you know, names of all of our clients all over
16 the place and they've brought them in and asked, Hey, who is
17 that? Well, that's him and that's him. Well, you know, the
18 guy has a gun, it is what it is, and it's a BLM officer.

19 THE COURT: So 5006C is the one with Santilli asking
20 for the supervisor?

21 MR. LEVENTHAL: Yes.

22 THE COURT: And there's a woman on the ground.

23 MR. LEVENTHAL: Yes.

24 THE COURT: And the Parker says he claims that on a
25 different video he could see her thrown down?

1 MR. MARCHESE: Your Honor, if I may clarify. I think
2 Mr. Leventhal's referring to 5006D. That was the one that was
3 played with Agent Stover. For whatever reason, all the
4 foundation was laid, but it was not entered into evidence.
5 That is the one that I attempted to bring in on redirect
6 examination and the objection by the Government was sustained
7 by the Court.

8 The one in evidence right now is 5006C. Mr. Myhre
9 and Mr. --

10 THE COURT: Okay. So are you saying that 5007D was
11 admitted through Agent Stover or was not admitted?

12 MR. MARCHESE: No. No, that --

13 THE COURT: It was just marked, but never admitted.

14 MR. MARCHESE: I think it even might have been
15 published. I mean, that was one of the Government's first
16 witnesses. It was about two months ago. Whatever reason it's
17 not into evidence.

18 THE COURT: Okay.

19 MR. MARCHESE: So, obviously if it's not in evidence,
20 then, you know, it can't be shown during the closing arguments,
21 but 5006C is the one that I brought in with Mr. Parker.

22 THE COURT: And I do show that 5006C was admitted.

23 MR. MARCHESE: Yes.

24 THE COURT: So, Mr. Myhre, the problem is that not
25 all of 5006C should have been admitted? Is that -- it was only

1 the portion that was shown that was . . . admissible?

2 MR. MYHRE: It was the portion that was shown to him.
3 I believe it was admitted to show what his state of mind was.
4 What he had viewed before coming down to Bunkerville. And
5 that's what was showed to him. So, whether there was more to
6 that video or not, I -- if there was, it wasn't shown to a
7 witness.

8 THE COURT: Is that the one where he said he only saw
9 a portion of it, not the whole video because it was really
10 long?

11 MR. MARCHESE: We did lay the foundation, Your Honor.
12 It's a longer video. I just didn't see the need to play the
13 entire video just as when the Government brought in the aerals
14 from, I believe it was, Special Agent, I think his name his
15 name is McEwen, they're not going to play two hours of aerals
16 and say, "Did you see all of this?" Mr. Parker was actually
17 the one who suggested to me, when we met in one of our
18 meetings, that that being an exhibit. So he has seen it. He
19 was the one who brought it to my attention. So rather than
20 play the 10 minutes, or whatever it is, and waste the Court's
21 time, I just laid the foundation and we entered in accordingly.

22 (Brief pause in proceedings.)

23 THE COURT: So is this the video that he said he only
24 saw a portion of it or --

25 MR. MARCHESE: No.

1 MR. MYHRE: This is the video I thought -- when I
2 mentioned portion, there was a portion of that video, which is
3 the April 9th Santilli video, that Agent Stover testified, "I
4 only saw part of it." And I -- I'm not sure if it was
5 Mr. Marchese or somebody else that had -- was discussing that,
6 may have been Mr. Tanasi, but I'm trying to recall, but we --
7 we had a discussion about how much he saw and we truncated the
8 video after -- after watching it.

9 MR. MARCHESE: That's -- Mr. Myhre is correct on both
10 accounts actually. He -- both Mr. Tanasi and myself questioned
11 Agent Stover about it. I had to tailor my questions because he
12 had only testified that he saw a portion of it, so therefore
13 anything that he hadn't seen was not relevant.

14 MR. LEVENTHAL: And just, by the way. We did that
15 also with David -- David Bundy's arrest. If you remember,
16 there's a dash cam and Agent Stover indicated that he had not
17 seen it up until just right there and that's when we've stopped
18 it and we haven't played anything prior to that, just after
19 what Agent Stover indicated that he saw during his
20 investigation. So that has been admitted just for that time
21 purpose.

22 THE COURT: All right. Well, I have that Exhibit
23 5006C has been admitted and so whatever comprises 5006C has
24 been admitted, but if it shouldn't have been, that's then maybe
25 a different problem, but it's been admitted.

1 As far as now this -- you said there's some
2 additional markings that have been made on it that were not
3 part of the original?

4 MR. MYHRE: Yes, Your Honor, and that's what
5 Mr. Leventhal represented that he would be willing to remove.
6 There's a circle with "lethal."

7 MR. LEVENTHAL: I did put it on there. It's just --
8 to show that there was lethal out there when we were told by
9 other agents that there was not lethal anywhere out there
10 before the 12th, that, in fact, there was, so I just circled
11 the person, the BLM officer that is, in fact, holding a weapon.
12 That's it. To take it off, though, I can see if Bryan can do
13 it. I've -- you know, a lot of the videos --

14 THE COURT: I don't have a problem with you leaving
15 it on there so long as it's clear to the jury that you're the
16 one who put it on there and not that it appears as if it's
17 something that the law enforcement had already put on there
18 or --

19 MR. LEVENTHAL: That's not a problem.

20 THE COURT: -- that it came from somewhere else.
21 Then that's fine.

22 MR. LEVENTHAL: Oh, no. It's very clear that I put
23 it on there and if it's not and the Court has a question, I'll
24 tell the jury that -- you know, I'll circle it, because I can
25 do it anyway. I can have Bryan stop it and circle it anyway.

1 THE COURT: Exactly.

2 MR. LEVENTHAL: So it doesn't really matter.

3 THE COURT: So long as it's just clear to the jury
4 that that's not part of the original video.

5 MR. LEVENTHAL: Yeah.

6 THE COURT: That that's something that you're doing
7 to call attention to a portion that you want them to focus on,
8 that's fine.

9 MR. LEVENTHAL: That's fine.

10 THE COURT: So the question then is whether or not he
11 can call it lethal? Is that the other --

12 MR. MYHRE: Well, there was no evidence --

13 THE COURT: -- concern?

14 MR. MYHRE: -- that was lethal. I mean, it's been
15 referred to -- well, just leave it at that. There was no
16 evidence that it was lethal and I understand the Court's ruling
17 and that's fine, so I have -- we can move forward from there.

18 But just so I'm clear then, Your Honor, with respect
19 to both -- with 5006C, then Mr. Leventhal be allowed to play
20 that but just not be able to argue that his client saw it? Is
21 that . . .

22 THE COURT: Right. He -- there's no evidence that he
23 saw it so he can't argue that he saw it, but I think the
24 testimony was that he stated in the Long Bow interview that he
25 did some research?

1 MR. LEVENTHAL: Correct, and he saw Government
2 overreach. And so I won't say that he saw it, but I can say --
3 I'll -- I will move around it --

4 THE COURT: There was a lot of stuff out there.
5 You've seen a lot of the stuff that was out there. He could
6 have seen some of the stuff that was out there.

7 MR. LEVENTHAL: He saw a lot -- he saw it all.

8 THE COURT: He saw something because he did do some
9 the research.

10 MR. LEVENTHAL: He did.

11 THE COURT: But you can't make that last connection
12 and say and, in fact, what he saw exactly was this video
13 because you can't say that.

14 MR. LEVENTHAL: I understand. Thank you very much.
15 I understand the ruling.

16 MR. MYHRE: Thank you, Your Honor.

17 THE COURT: All right. So we'll call back the jury
18 and then Mr. Dickinson, you can -- if you need to -- I think we
19 might have caught you mid-video, so if you need to cut it back
20 a little bit so it's in context, that's fine.

21 And I wasn't planning on cutting you off, but the
22 jury needed to use the restroom.

23 MR. DICKINSON: No. I was actually looking. This
24 was the perfect stopping point so I was actually going to
25 inquire with the Court right at the end of this video.

1 (Brief pause in proceedings.)

2 COURTROOM ADMINISTRATOR: All rise.

3 (Jury returned to courtroom at 2:05 p.m.)

4 THE COURT: All right. Everyone may be seated.

5 We're joined by the jury after our lunch break and
6 we're now going to continue with the Government's summation.

7 Mr. Dickinson, you may proceed.

8 MR. DICKINSON: Thank you, Your Honor.

9 So, it's been a few minutes, not too long. I know
10 the judge has instructed you on the law but just to emphasize
11 some point of the jury instructions that the Government would
12 like you to keep in mind during your deliberations.

13 Count One -- there's two conspiracies charged in this
14 case. The first one is a conspiracy starting on or about
15 March 28th. It's when Cliven and Ryan and the cattle -- start
16 impeding the impoundment operation and the contractors coming
17 in, but essentially the object is to commit one of several
18 federal crimes; Assault on a Federal Officer, Threatening a
19 Federal Law Enforcement Officer, Using and Carrying a Firearm
20 in Relation to a Crime of Violence, Obstruction of the Due
21 Administration of Justice, Interference with Commerce by
22 Extortion, and Interstate Travel in Aid of Extortion. You just
23 need to find that there was an agreement between two people to
24 commit at least one of those and unanimously find that at least
25 one of those objects was agreed to by the people that you find,

1 which in this case would be the six defendants.

2 The second conspiracy is more specific and there's
3 two alleged objectives; one is to prevent by force,
4 intimidation, or threats, federal law enforcement officers from
5 discharging their duties of their office of the United States.
6 In this one, the Government submits there's evidence, in
7 addition to the 12th, where the defendants -- some of them --
8 you've seen Mr. Burleson, Mr. Lovelien, still talking about
9 supporting the resistance at the Bundy ranch and sending money,
10 et cetera, et cetera, and also all the defendants were
11 glorifying what they've done to intimidate the BLM from coming
12 back and doing their job.

13 The second object's to induce by force, intimidation,
14 or threats any federal law enforcement to leave a place where
15 their duties were required to be performed. Obviously, it's
16 the 12th and then thereafter.

17 And just pointing out a few things that the
18 Government does and does not have to prove with the conspiracy.
19 We don't have to prove that each single defendant directly
20 conspired with other co-conspirators or that other defendant
21 conspired with another defendant, only that they agreed to
22 participate in the conspiracy. And that, we would have to show
23 that they directly conspired with one or more co-conspirators
24 to carry out at least one of the objects and they knew or had
25 reason to know that other co-conspirators were involved with

1 those with whom the defendant directly conspired.

2 And, for an example, if our defendants who were on
3 the bridge that day and see Mr. Burleson down there moving in
4 and out of the crowd with the gun and their object is to get
5 the cows, using guns and assaults and threats, et cetera, he's
6 a member of the conspiracy even though they don't know who he
7 is and they have never met him before, but they can see and
8 they have reason to know that there's people involved with
9 their conspiracy.

10 And the defendant has reason to believe that whatever
11 benefits the defendant might get from the conspiracy were
12 dependent upon the success of the entire venture.

13 In this case everyone's interdependent on each other
14 to get those cows. One person is dependent on another person
15 is dependent on another person. And then we've heard examples
16 throughout this closing that's in evidence of the cows were
17 released, the cows were released. We came there to do what we
18 said we would do.

19 And even if the defendants had some other, you know,
20 ulterior motive, whether it be their desire to stand off with
21 the federal government, or to show force with the federal
22 government, and getting the cows was a reason -- or provided an
23 opportunity to do that, their ultimate goal was still to get
24 the cows and get the BLM to leave.

25 It's not a defense that a person's participation in a

1 conspiracy was minor or for a short period of time. It could
2 be for an hour. Could have been for two hours in that wash.

3 And that goes to both of the conspiracies.

4 In Count One, the conspiracy to commit one of the
5 criminal offenses the Government has to prove an overt act.
6 Only one of the defendants took an overt act, that can be legal
7 or illegal. In this case there's hundreds of overt acts.
8 Traveling down to the bridge. Standing on the -- you know,
9 moving around on the bridge. Holding your firearm up. All
10 overt acts, and we only have to prove one of them, and we've
11 done that beyond a reasonable doubt.

12 Instruction 11. The person intends the natural
13 probable consequences of acts knowing or done -- or
14 knowingly -- knowingly done or knowingly admitted. I ask you
15 to keep that in mind when you're reviewing some of this
16 evidence related to some of those defendants.

17 Count Five, Assault on a Federal Officer.

18 Some of these are fairly straightforward. The
19 defendant forcibly assaulted a federal officer and assault is
20 defined as when one person intentionally threatens another
21 coupled with an apparent ability to inflict injury on another
22 which causes a reasonable apprehension of bodily harm.

23 Well, all these defendants had an apparent ability to
24 inflict injuries because they all had weapons. And we've shown
25 through our evidence and through their own statements, through

1 their concert of action, that they intentionally threatened
2 those law enforcement officers because that's the only way they
3 could have accomplished what their goal was.

4 And reasonable apprehension of bodily harm is
5 determined with reference to a reasonable person aware of the
6 circumstances known to the victim. Circumstances unknown to
7 the victim are not included.

8 There's no doubt that those officers had a reasonable
9 apprehension of bodily harm and that it was reasonable and that
10 a reasonable officer would -- we've heard from all the federal
11 law enforcement officers, the sheriff, the third in command of
12 the Nevada Highway Patrol, they were all in fear and they all
13 had reasonable apprehension of immediate bodily harm.

14 Government's not required -- not required to prove
15 that the defendant knew, although it's -- we have proven beyond
16 a reasonable doubt that these defendants knew that the victims
17 were federal law enforcement officers, but we don't have to
18 prove that.

19 The Government also is not required to prove that the
20 defendant actually intended to cause bodily injury. It's the
21 mere fact that they assaulted, that they threatened another,
22 coupled with that apparent ability to inflict injury.

23 13.1. Federal officers acting in the good faith
24 performs of their duties may not -- may not be forcibly
25 resisted by another. Clearly the federal officers in this case

1 were acting in the good faith performance of their duties and
2 they cannot be forcefully resisted. It's not a defense and
3 it's not an excuse.

4 Threatening a federal law enforcement officer.
5 Defendant made or did an act. Here, there are statements that
6 were made, but primarily focusing on the acts, which is
7 brandishing, the carrying, the using the firearms, the making
8 it known that we have firearms.

9 The defendants clearly intended those statements to
10 be a threat. That was the whole purpose. Do what we want or
11 else. And that would be viewed as a threat. Clearly it would
12 be viewed as a threat.

13 That a reasonable person making the statement or
14 doing the act would foresee that the statement or act would be
15 interpreted by those to whom the maker communicated the
16 statement as an act or serious threat.

17 Clearly that was their intention. That was the only
18 reason they had firearms out there in the wash and on the
19 bridge on April 12th, 2014.

20 And that the threat was made with the intent to
21 impede, intimidate, or interfere with federal law enforcement
22 or to retaliate for the performance of his or her duties.
23 We've proven that beyond a reasonable doubt.

24 And then there's page, 14, and onto 14.1, defining
25 threat. It's a serious expression expressing intention to

1 inflict bodily injury at once or in the future as distinguished
2 from idle or careless talk, exaggeration, or something said in
3 a joking manner.

4 There was no exaggeration or joking manner on
5 anything that these defendants did with their weapons on
6 April 12th, 2014.

7 In determining whether the acts constitute a threat
8 you can consider circumstances under what they were made -- the
9 circumstances under which the alleged threat was made. So, the
10 entire day, the entire circumstances surrounding the events of
11 April 12th, and you can determine -- you can use the -- and
12 evaluate the reaction of those who heard the statements or saw
13 the acts.

14 You've heard all of those law enforcement officers
15 that have testified. I read some of their -- some of their
16 fear to you and some of their testimony.

17 And whether the statements were conditional. Give us
18 the cows or else.

19 It's not necessary that -- the Government does not
20 have to prove that the defendants intended to carry out the
21 threat; that they, in fact, were going to harm law enforcement
22 officers or shoot the law enforcement officers. It's the
23 threat that's the crime.

24 It's not necessary that we prove the exact words or
25 actions that constitute the threat. Here, it's all working in

1 concert. It's Mr. Burleson, it's Mr. Parker, it's Mr. Drexler,
2 it's Mr. Engel, it's all of these defendants. It's the blue
3 shirt guy in the wash. All of those acts combined.

4 Federal law enforcement officer is any agent or other
5 employee of the United States government who is authorized by
6 law, et cetera, et cetera. All of the federal law enforcement
7 officers who testified, testified that is, in fact, who they
8 were. It's undisputed.

9 And again, the Government does not have to prove that
10 the defendant knew that the victim, he or she was a federal law
11 enforcement, although we've done that.

12 There's definitions of impede, intimidate.

13 Just focusing on intimidate, it means to make timid
14 or fearful, to inspire or affect with fear, to frighten or to
15 defer.

16 The undisputed testimony of those law enforcement
17 officers are they were intimidated.

18 Obstruction of justice. The defendant influenced,
19 obstructed, or impeded, or tried to -- or tried. Doesn't
20 actually have to succeed, although they succeeded in this case,
21 to influence, obstruct, or impede the due administration of
22 justice.

23 In this case the due administration of justice is the
24 carrying out of those court orders issued by the District Court
25 of Nevada.

1 Defendants acted corruptly. It means with the
2 purpose of obstructing justice.

3 The evidence has shown beyond a reasonable doubt that
4 one of their intentions, which was substantial, was to obstruct
5 justice.

6 Extortion. Count No. 16. The defendant intended to
7 induce someone to part with property by the wrongful use of
8 actual threatened force, violence, or fear.

9 Those cattle were in the legal custody of the United
10 States government. It's not a -- it's not a defense to -- a
11 defendant's claim of right to property is not a defense. So
12 all of these defendants, Cliven Bundy, everyone else could
13 believe till the -- in the deepest part of their heart that
14 that was actually their property and this District Court was
15 wrong; it's not a defense.

16 And it was induced with wrongful use of actual
17 threatened force, violence, or fear, and we've demonstrated
18 that over this trial beyond a reasonable doubt.

19 The sheriff testified to it. There's no -- those
20 cattle would not have been released without the wrongful use of
21 actual or threatened force, violence, or fear.

22 The defendant acted with the intent to obtain
23 property.

24 Again, go get my cattle. That's what they were there
25 for.

1 And that commerce from one state to another was
2 affected in some way.

3 There's a lengthy definition of commerce, but it only
4 has to have a de minimis affect of interstate commerce. It can
5 be minimal -- the effect can be minimal. Conduct affects
6 interstate commerce if in any way it interferes with, changes,
7 or alters the movement or transportation of the flow of goods,
8 merchandise, money, or other property in commerce between or
9 among the states. It can be minimal.

10 And we don't have to prove that the defendant
11 intended to obstruct or delay commerce.

12 Here, the commerce, the most ready example is the
13 cows. The cows were going to California. That's where they
14 were intended to go, which is out of state, which is interstate
15 commerce. On the interstate freeway. Everyone knew that.
16 Government's Exhibit 11 shows that the conspirators knew that,
17 at least some of them. Mr. Parker talks about, when he was on
18 the stand, that the cows were going to California and he even
19 had knowledge about where they were going to go before that.

20 It's also the affecting of the freeway. You saw the
21 videos on the freeway. Clear examples of trucks and markings
22 on the trucks and the blocking of the freeway and interstate
23 freeway affects interstate commerce and that's enough to find a
24 minimal effect on interstate commerce.

25 And then also fear is defined in this count as

1 apprehension, concern, or anxiety about physical violence or
2 harm that is reasonable under the circumstances.

3 Again, for the same reasons we've discussed in the
4 threats and the testimony of the federal law enforcement
5 officers, that element is met.

6 The interstate or foreign travel in aid of extortion.
7 Essentially a different charge of extortion. This one
8 incorporates state laws.

9 Essentially the defendants have to travel in
10 interstate commerce or use a facility in interstate commerce,
11 namely the Internet or World Wide Web, with the intent -- the
12 intent to commit a crime of violence in furtherance.

13 I just want to point out it's not just the traveling.
14 For example, once the order was given to go get the cattle,
15 Mr. Parker and Mr. Drexler -- or Mr. Engel took to Facebook,
16 which is a facility of interstate commerce, and expressed their
17 intentions. We're going to get the cattle by force. We're
18 using guns. We're going to close down the freeway, clearly in
19 anticipation of violence.

20 You saw the OMA and the Ryan Payne postings talking
21 about what the goal was, with Mr. Lovelien. Mr. Burleson's
22 statements are self-explanatory and as we'll talk about in a
23 few minutes, you could find Mr. Drexler and Mr. Stewart guilty
24 of these offenses based on the fact that they were members of
25 the conspiracy and also that they were aiding and abetting the

1 rest of the defendants.

2 So after the travel or the use of the World Wide Web
3 with the intent to commit eventually a crime of violence,
4 namely extortion, after they did that, then they went and did
5 commit a violent crime in furtherance, as we allege the violent
6 crimes were Assault on a Federal Officer, Count Five, and
7 Threatening a Federal Officer, Count Eight and then that they
8 actually extorted. In Nevada, you're given the definition of
9 Nevada extortion, which provides, in part, "that a person, who,
10 with the intent to extort or gain any money or property" -- in
11 this case the cows -- "or do or abet or procure any illegal
12 wrongful act, whether or not the purpose is accomplished" --
13 don't even have to accomplish it -- threat -- "threatens,
14 directly or indirectly" -- which we've already discussed -- "to
15 injure a person or property has committed the offense of
16 extortion." So the Government has proven that beyond a
17 reasonable doubt.

18 Counts Six, Nine and Fifteen. Using and Carrying or
19 Brandishing a Firearm During and in Relation to a Crime of
20 Violence.

21 These relate to count -- the Assault on a Federal
22 Officer count, the Threatening a Federal Officer count, and the
23 interstate extortion -- the Hobbs Act extortion.

24 THE COURT: And Mr. Dickinson, you have Count Two on
25 the screen.

1 MR. DICKINSON: Oh, I'm sorry, Your Honor.

2 The elements are simple. The defendant committed the
3 underlying crime. So, for example, in Count Five, the Assault
4 on a Federal Officer, and second, the defendant knowingly used
5 or carried a firearm during and in relation to that crime.

6 And used a firearm is defined as actively employing
7 the firearm during and in relation to the crime of violence.
8 Carried a firearm, if he knowingly possessed it, held it, moved
9 it, conveyed it, transported it in some manner on his person or
10 in a vehicle. All of these defendants did that.

11 And then a defendant used or carried a firearm,
12 "during and in relation to the crime." So, for example, here,
13 Assault on a Federal Officer, if the firearm facilitated or
14 played a role in the crime as charged in this particular count.

15 And clearly, beyond a reasonable doubt, the use of a
16 firearm played a role in the Assault on a Federal Officer
17 because that's why they were assaulted, with a dangerous
18 weapon, which was a firearm, by all of these defendants.

19 And then if you find the defendants used and carried
20 a firearm, you're going to be asked on the verdict form to find
21 did they brandish. And brandish has a definition of if the
22 defendant displayed all or part of the firearm, or otherwise
23 made the presence of the firearm known to another person in
24 order to intimidate that person, regardless of whether the
25 firearm was directly visible to the person.

1 So the whole firearm doesn't even need to be shown to
2 the person. It doesn't need to be pointed at the person. It
3 just needs to be displayed to intimidate. And I -- we've
4 proven that. We've proven the whole point was to have firearms
5 there to intimidate the BLM and the National Park Service so
6 they would back down and release the cattle.

7 And then I just want to spend a few minutes on
8 Instructions 20, 20.1 and 21.

9 And then the same on the 924(c), it's the same for
10 the Threatening a Federal Law Enforcement Officer. They used
11 and carried it. That was the -- that was the threat.
12 Threatened the firearm. They brandished it. As well as the
13 extortion. The cows would not have been given up without the
14 fear of the extortion. So when Ryan Bundy says give me the
15 cows, or Dave Bundy says you have an hour to give us the cows,
16 and Ammon's up against the fence and says you leave, you leave,
17 the cows -- it's all because of the firearms.

18 Now, Instruction 20, liability for substantive
19 offense committed by a co-conspirator. Essentially, if you
20 find the defendant was a member of one of the conspiracies and
21 that a crime was committed, it was reasonably foreseeable as a
22 membership in their conspiracy, they're guilty of it, whether
23 or not they personally committed all the elements or not.

24 So, for example, on extortion, if you find that any
25 of these defendants were a member of a conspiracy, however

1 you're not sure, you know, did -- did they -- did they go up
2 and they weren't the ones that actually said give me the cows
3 or else, it doesn't matter, because it was reasonably
4 foreseeable as part of the conspiracy that a
5 give-us-the-cows-or-else demand would be given. Not that it
6 even has to be given verbally as it was in this case because
7 the message was quite clear from the angry mob that was in the
8 crowd.

9 So as long as the offense fell within the scope of
10 the unlawful conspiracy, the defendant's on the hook for it,
11 whether or not he committed all of the elements of the offense
12 or not.

13 And in this case, also, the assault and the
14 threatening was a concert of action. It was Eric Parker, it
15 was Scott Drexler, it was Todd Engel, it was Ricky Lovelien, it
16 was Greg Burleson, it was Steven Stewart, it was the guy in the
17 blue shirt, it was the Arizona Militia, it was all working
18 together to threaten those federal law enforcement officers to
19 get them do what the defendants and their co-conspirators
20 wanted them to do. So it doesn't matter if Officer A didn't
21 see Defendant B, they're all guilty, because it's a
22 reasonable -- it's reasonably foreseeable. They're guilty of
23 the assault on a federal officer and the threats because all of
24 that is reasonably foreseeable to the conspiracy and what's
25 going on in front of them.

1 Setting aside the conspiracy, just looking at -- and
2 I'll use Assault on a Federal Officer, for example --
3 Instruction 21, aiding and abetting, a defendant can be guilty
4 of the crime charged, for example, Assault on a Federal
5 Officer, even if they didn't commit the act or all the acts
6 constituting the crime but just aided and abetted in its
7 commission.

8 And to prove aiding and abetting we need to show a
9 crime was committed by someone, and clearly here, the someone
10 was pointing a -- was brandishing firearms to get the law
11 enforcement officers to back down, to capitulate, to threaten
12 them, to assault them; and second, the defendant aided,
13 counseled, commanded, induced, or procured that person with
14 respect to at least one element of the crime; and the defendant
15 acted with the intent to facilitate the crime and acted before
16 the crime was completed.

17 Here, again, the defendants all aided and abetted
18 each other. Drexler is aiding and abetting Stewart who is
19 aiding and abetting Parker who is aiding and abetting the blue
20 shirt in the wash who is aiding and abetting the guy prone
21 under [sic] the bridge who is aiding and abetting Ammon Bundy
22 who's aiding and abetting Cliven Bundy even though he's not
23 there, who's aiding and abetting Ryan Payne, but especially the
24 gunmen in the wash, they are aiding and abetting each other,
25 because that's how this worked. The show of force.

1 And the evidence must show beyond a reasonable doubt
2 the defendant acted with the knowledge and intention of helping
3 that person commit the crime.

4 The photographic evidence itself shows that. Stewart
5 and Parker are prone out on the bridge. Burleson's movements
6 through the wash with his long gun. Steven Stewart standing on
7 the bridge with his long gun.

8 MR. TANASI: Your Honor, I would just like to insert
9 a late objection here. There's no evidence of Mr. Stewart
10 prone out on the bridge.

11 THE COURT: Sustained.

12 MR. DICKINSON: I apologize.

13 Mr. Drexler and Mr. Parker prone out on the bridge,
14 not Mr. Stewart. Although there's evidence that Mr. Stewart
15 was spotting for Mr. Parker on the bridge, which clearly would
16 be aiding and abetting, although he has his own gun out, but
17 the point is, these defendants were aiding and abetting each
18 other and that is how a conspiracy worked and that is how these
19 crimes were committed.

20 Just very quickly, on the verdict form, very quickly
21 on the verdict form because there are some special verdicts, on
22 Count One, you're first being asked to find was there a
23 conspiracy? Was there an agreement between two or more persons
24 to commit one of the following offenses? and then it lists the
25 offenses; the assault, the threatening, the use, carry, et

1 cetera. And it's only seven -- obviously the Government
2 believes you should check Boxes 1 through 6. There's proof
3 beyond a reasonable doubt on all of those. 7 would be none of
4 the above. But it's specific to each defendant. So if you
5 find there was an agreement to commit at least one of those,
6 then you go down and determine whether or not each defendant
7 was part of that agreement that you've already found. So it's
8 not all or nothing. But the Government, again, believes we've
9 proven beyond a reasonable doubt all of these defendants are
10 guilty. It's not one and the same. They stand alone. They
11 stand separate. So, Mr. Burleson could be found not guilty and
12 the rest of the defendants could be found guilty.

13 Same as to Count Two, except here there's just the
14 two objects that I discussed with you and then it's similar.
15 If you find the conspiracy -- there was a conspiracy to do at
16 least one of these and then you address the defendants.

17 And then on the 924(c) counts, for example, Count
18 Five, if you find the defendant guilty of Assault on a Federal
19 Officer, if you do, then you go down to Count Six. So if you
20 find Mr. Burleson guilty, you go down to Count Six and answer
21 the question is he guilty of the 924(c) which is use of a
22 firearm during and in relation, and then there's a third part,
23 if you find him guilty, then you take the definition of
24 brandishing and figure out and determine has he brandished. So
25 it's a three-part. Is he guilty of the underlying crime of

1 violence as the Court has instructed you? "Guilty." Did he
2 use or carry a firearm? The next count, Count Six, the
3 corresponding count, "guilty," and then you go down and find --
4 and determine whether or not he has brandished. "Yes." And
5 that that would go with the rest of the defendants.

6 And that follows along with the other two counts, the
7 Threatening a Federal Law Enforcement Officer, and Extortion.

8 So I appreciate your time, ladies and gentlemen.
9 You've sat here a long time and you've heard a lot of evidence.
10 When Mr. Myhre first talked to you, he told you that this was a
11 simple case. The Government still does believe it is a simple
12 case. If you look at the jury instruction, you cannot resist
13 law enforcement officers that are acting in their lawful
14 capacity, and you especially cannot do that with guns. And
15 that's what happened here in this case. And all the other
16 elements are met, but at the essence of it is you just can't go
17 be vigilante and go and do whatever you want because you don't
18 like what law enforcement officers are doing, if they're doing
19 it legally, and that's what this case is. They showed force.
20 They matched force. They overcame, and then they bragged about
21 it and put it all out there like this was some big victory.

22 The only people that day that showed courage were the
23 law enforcement officers; the federal law enforcement officers,
24 the state law enforcement officers, the county law enforcement
25 officers who used their training, their expertise that they've

1 practiced over and over again hoping to never use, but on that
2 day they had to use it. And they made the only decision that
3 could have been made and that was to back down and get the BLM
4 out of there safely and de-escalate the situation and deal with
5 it some other time.

6 So, again, I appreciate your time. After the
7 defendants -- after defense counsel and Mr. Engel have an
8 opportunity to speak with you, as the Court's told you, because
9 the Government has the burden of proof, Mr. Myhre is going to
10 have an opportunity to talk with you and when he's done, he's
11 going to ask you to find all of these defendants guilty on all
12 counts because that is what the evidence has proven beyond a
13 reasonable doubt.

14 Thank you.

15 THE COURT: Thank you, Mr. Dickinson.

16 Mr. Tanasi?

17 MR. TANASI: Yes, Your Honor. Thank you.

18 The Court's indulgence.

19 THE COURT: Yes. Of course.

20 (Brief pause in proceedings.)

21 MR. TANASI: May it please the Court, counsel for the
22 Government, defense counsel, ladies and gentlemen of the jury,
23 good afternoon. It's been a long, long ride. It's been
24 approximately two months or so. Mr. Stewart and I, we thank
25 you for all your time and all your diligence here today and all

1 your diligence for the past couple of months.

2

3 "We must all hang together, or surely we shall all
4 hang separately," Benjamin Franklin.

5 "I declare to you that woman must not depend upon the
6 protection of man, but must be taught to protect herself, and
7 there I take my stand," Susan B. Anthony.

8 Folks, as I told you when we first met, this is a
9 case about standing up for what you believe in. Nothing more.
10 Nothing less.

11 Steven Stewart, ladies and gentlemen, he did just
12 that, in April of 2014.

13 "Headed to Nevada. Going to stand up with my fellow
14 countrymen against a corrupt government." That's what was in
15 his head. Protest, folks. Standing up for what he believed
16 in.

17 His Facebook post here, folks, shows exactly why he
18 brought his gun. Not to commit crimes. Not to assault federal
19 officers, but to exercise the First Amendment, his First
20 Amendment right, your First Amendment right, to protest, and he
21 did so with the Second Amendment. His Second Amendment right.
22 Your Second Amendment right to bear arms. He did so, folks, so
23 that he wouldn't get sprayed in the face and attacked by
24 federal officers, like this picture shows. That's what was in
25 Steven Stewart's head when he went to Bunkerville. That's what

1 the evidence shows in this case.

2 Now, folks, there's several jury instructions in this
3 case, and I don't plan on going over all of them with you, but
4 I do want to go over a few. We all have jobs to do. My job is
5 to represent Steven Stewart. Your job, ladies and gentlemen,
6 your duty, is the oath that you swore in this case, to find the
7 facts and follow the law.

8 You'll recall that you swore an oath, an oath to do
9 that, a few months ago. And if you do that in this case,
10 folks, apply the facts to the law, the only verdict you'll
11 return is not guilty on all counts.

12 Now, Mr. Dickinson has done a good job of kind of
13 just weaving everybody together here and throwing it at you as
14 one big conspiracy. The reality is, as Jury Instruction No. 4
15 tells us, you are to consider -- separate considerations of
16 multiple counts for multiple defendants. You are to consider
17 each and every count in this case as it pertains to each and
18 every defendant in this case.

19 And, folks, you must -- in order to return a guilty
20 verdict as Mr. Dickinson is asking you to do, you must be
21 convinced beyond a reasonable doubt -- a reasonable -- beyond a
22 reasonable doubt that Steven Stewart has committed each and
23 every one of the crimes that's alleged in this case.

24 How do you get there? Well, proof beyond a
25 reasonable doubt is proof that leaves you firmly convinced that

1 Steven Stewart is guilty. You must be firmly convinced.

2 Let's talk about the conspiracy.

3 Jury Instruction 7.1, lengthy. What I've highlighted
4 for you here, folks, is how there's no conspiracy in this case.
5 It is not enough, however, that they, the defendants, simply
6 met, discussed matters of common interest, and similar ways or
7 perhaps even helped one another. That's not enough to prove a
8 conspiracy. That's not enough to demonstrate that there was a
9 agreement to commit crimes.

10 Folks, that's all the evidence has shown you. All
11 the evidence that you've seen so far, folks, are defendants
12 discussing matters of similar interest, at most, and again,
13 when you look specifically at Steven Stewart.

14 Now, this concept is even more important and
15 discussed here in the mere presence instruction which is that
16 mere presence at the scene of a crime or mere knowledge that a
17 crime is being committed is not sufficient to establish that
18 the defendant committed the crime of conspiracy.

19 So, merely being present at the scene of a crime,
20 together with other people, merely being present, is not enough
21 to prove a conspiracy.

22 Folks, there's no crime in this case, so there's no
23 conspiracy.

24 In this case it was a protest. A protest. Not a
25 conspiracy. You heard from Eric Parker, bravely got up on the

1 stand and he told you, there was a plan to protest. That was
2 his plan.

3 Steven Stewart, he talked about his plan on Facebook.
4 There's a lot of Facebook evidence in this case. He talked
5 about his plan on Facebook. He's sick of this "S" asterisk,
6 asterisk, asterisk. We all know what he's saying there.
7 "Heading to Nevada right now."

8 The response by his sister is, "Come by and say hi to
9 your sisters." Does that demonstrate an exchange of somebody
10 who's planning ongoing to Bunkerville to commit a crime?

11 Why did he go? What got him so interested in this?
12 What -- what made him go to Bunkerville? What made him go and
13 demonstrate? What was in his head?

14 Well, it's what he saw. It's what he saw on the
15 Internet. He posted it on his Facebook page. "Enter the
16 rancher standoff with federal government to a search engine.
17 Watch the video of son rip out Taser studs."

18 (Exhibit published.)

19 THE COURT: That's not working. You want to play it
20 from the beginning.

21 MR. TANASI: Losing the audio altogether.

22 Well, folks, I don't know if you can hear it from my
23 computer or not, but you can certainly see it. You can
24 certainly see it. You can see what he saw.

25 (Exhibit published.)

1 MR. TANASI: That's what he saw, folks, before
2 heading to Bunkerville. That's what he was protesting.

3 He also saw this First Amendment zone (indicating).
4 First Amendment zone, folks, in the middle of the desert, where
5 folks were being herded, like cattle, to speak their mind.
6 That's what he saw. And he called it bullshit. That's why he
7 went to Bunkerville.

8 He planned to be careful, folks, not to be a
9 criminal. Look at this exchange on Facebook.

10 "Please be careful. There's a lot of people out
11 there," his mom says.

12 "I love you, Mommy. We will."

13 Does that sound like a guy who's ready to -- ready to
14 battle the federal law enforcement? He's ready to threaten law
15 enforcement? Is he ready to go up there and have a war? No.
16 It's a guy who's going up to protest and he's telling his
17 mother, who he loves, that he's going to be careful.

18 Straight there. Straight back. "Guys, only went for
19 the weekend. We helped Cliven get his cattle back. Straight
20 there. Straight back. Two hours of sleep in between."
21 Straight there. Straight back. That's it. Folks.

22 How did he help Cliven get his cattle back? Through
23 protesting. Protesting, folks.

24 And let's look at the time frame on this. On the
25 18th is when he posts this, April 18th.

1 Mr. Dickinson, he made it kind of a big deal in his
2 closing here about this order that -- or this discussion about
3 a federal judge that Steven posted on his Facebook account.
4 Posted it on the 15th of April; right? Okay. That shows that
5 he didn't even know about a court order until after he got back
6 from Bunkerville, folks. That's what that shows.

7 Why is that important? Because the Government's
8 theory is that this case is about a guy -- a bunch of guys who
9 get together and they want to thwart the government's court
10 order that Steven Stewart doesn't even know about until he gets
11 home.

12 And, I would also point out that in this post he's
13 critical of Judge Lloyd D. George. Well, folks, as we'll see
14 later, the judge who signed the actual order in this case, was
15 Judge Hicks (indicating).

16 "United we stand. We, the people, will be heard in
17 Nevada. No more government bullying."

18 Again, that's what's in Steven Stewart's head when
19 he's traveling to Bunkerville.

20 Why did he bring his gun? Saw it in the first or
21 second slide here. Well, because he learned that a Clark
22 County official said Bundy ranch supporters, they better have
23 funeral plans. Bundy ranch supporters who want to come and
24 stand up for what they believe in, exercise the First
25 Amendment, if they're coming, they better have funeral plans.

1 Well, he brought his gun to deter that from happening
2 so that his family didn't have to make funeral plans for him.

3 Now, folks, let's talk about assault. That's one of
4 the charges in this case. Count Five.

5 Essentially, Government has to prove that the
6 defendant forcibly assaulted a federal officer. Okay? How do
7 we know what forcible assault is? The jury instruction
8 describes it. "Forcible assault is when one personal
9 intentionally threatens another, coupled with the apparent
10 ability to inflict injury on another which causes a reasonable
11 apprehension of immediate bodily harm."

12 Okay. Now, a reasonable apprehension of immediate
13 bodily harm is determined with reference to a reasonable person
14 aware of the circumstances known to the victim.

15 Here's what's -- here's where the point I'm getting
16 to, folks. Circumstances unknown to the victim are not
17 included.

18 Steven Stewart is a circumstance unknown to all of
19 these alleged victims that came into court and testified about
20 how scared they were.

21 In this case also the Government has to prove
22 threats, Count Eight. And in this jury instruction here, Jury
23 Instruction 14, the first element is that the defendant made a
24 statement or did an act that constituted a threat to assault a
25 federal officer. Interwoven. Assault. Fear. Main element in

1 these two counts, folks.

2 Again, Steven Stewart is a circumstance unknown to
3 the BLM and to the National Park Service, even by the
4 Government's own exhibits in this case, Exhibit 132. It shows,
5 at 12:37 -- it shows the northbound bridge (indicating). It
6 shows the southbound bridge (indicating). It also shows the
7 BLM over here (indicating). It shows this BLM truck
8 (indicating) -- just kind of drew a circle above -- driving
9 away.

10 As the Government just went through with their
11 closing argument with you, at this time the Government is
12 retreating, they said. The point is, they're driving away;
13 right?

14 At 12:39 this is the one and only time that
15 Steven Stewart's gun is over that Jersey barrier, based on all
16 of the pictures you've seen in this case and based on what
17 happened on that day. This right here (indicating) is the only
18 picture, two minutes later after they're retreating already.

19 Folks, credibility is key and that's for you all to
20 decide. Credibility is what you folks decide. And what that
21 means is, Do you believe the witnesses that came in here and
22 testified or do you not? Right?

23 There's a list in Jury Instruction 29 that outlines
24 credibility. It outlines the different factors. There's
25 eight. The ones I've highlighted here, the witness' bias or

1 prejudice, if any; the reasonableness of the witness' testimony
2 in light of all the evidence; and any other factor that bears
3 on believability in this case.

4 So, the question is, do you believe that the BLM
5 agents, the Park Service folks who came in here and said how
6 scared they were, were really that scared? Do you believe
7 that?

8 Metro Sergeant Reader, says it's the scariest day of
9 his career.

10 Okay. Backing up. The day that he says is scariest
11 day of his career, he authors a report. In that report, he
12 writes down everything that should be important to him,
13 everything that's important to the investigation. Everything
14 that's important so that when we get to trial, he can rely on
15 that report. Well, in that report he says nothing about it
16 being the scariest day of his career. He meets with the U.S.
17 Attorney's Office, he meets with the FBI, he comes to court and
18 testifies, now it's the scariest day of his career.

19 Sergeant Jenkins, same thing. Says nothing in his
20 report about anybody pointing weapons at him. Meets with the
21 U.S. attorneys. Meets with the FBI. Comes to court and
22 testifies. Everybody's pointing weapons at him.

23 MR. MYHRE: I'm going to object, Your Honor, to this
24 line of argument. The Court has already ruled on this
25 particular issue.

1 MR. TANASI: Your Honor, it goes to credibility. The
2 jury instruction is right on point. I'm already --

3 THE COURT: Is your objection to the use of the
4 transcript?

5 MR. MYHRE: No, Your Honor. It's the objection to
6 the -- to the reference to the changing of stories after
7 meeting with the U.S. Attorney's Office.

8 THE COURT: Well, yes. That -- that's an instruction
9 that was clear, that the Government and all the parties have a
10 right to speak to the witnesses before they take the stand and
11 the witnesses have a right to review documents before they take
12 the stand so any interference that that was improper is not
13 appropriate, but otherwise, for purposes of arguing
14 credibility, it would be relevant.

15 MR. TANASI: Thank you, Your Honor.

16 Agent Brunk. Agent Brunk would not, when he was
17 testifying here in court, refer to any of the armed individuals
18 as protestors. Didn't use that word. Wouldn't use it. Used
19 it in his report though, folks.

20 Ranger Apley, same thing. Would not refer to the
21 individuals on the bridge as protestors. Comes to court and
22 calls them -- refuses to call them protestors.

23 Agent Johnson. Agent Johnson says nothing in his
24 report being scared, frightened, or threatened. Nothing --
25 nothing in his report about that. But when he's in here

1 testifying, he tells you how scared and frightened and scared
2 he was.

3 Folks, the video in this case speaks for itself. You
4 don't have to take my recitation of it; you can listen to the
5 video yourself. And let's hope this time you can hear it.

6 "There are some God damn ugly women here." That's
7 one of the agents. Not my words, folks.

8 (Exhibit published.)

9 "Agent Parker: They're not actively assaulting us
10 yet." He laughs.

11 (Exhibit published.)

12 Logan Briscoe decides to take a picture while he's in
13 the wash. And -- and again, remember, Ranger Apley he calls it
14 a fatal funnel; right? Well, how many videos and how many
15 pictures have we seen of folks just walking around right out in
16 the open in this fatal funnel? You see a little of it here.

17 (Exhibit published.)

18 Snaps a picture and laughs it up.

19 There's a joke about impromptu church. Impromptu
20 church time.

21 (Exhibit published.)

22 Realizing they didn't want to catch any more of that
23 on video, he turns it off real quick, folks.

24 They joke about a heavysset woman they see in the
25 crowd.

1 Joke about "I think she likes you" and then he says,
2 "That scares me and she's not my type."

3 "Do you remember saying that, sir?"

4 "Yes, I do."

5 "And that was the heavyset lady you were talking
6 about?"

7 "I believe so, yes."

8 And folks, where were Sheriff Gillespie and
9 Tom Roberts? You didn't hear from them. Why?

10 Tom Roberts is right down there at the gate with
11 Sergeant Reader walking around, walking and, turning his back
12 to the bridge. You don't hear from him, why?

13 You don't hear from Sheriff Gillespie. Why?

14 Actions in this case, folks, speak louder than words.
15 This is just a screenshot, I won't show you another video
16 because you've seen it already, of NHP walking around, not
17 arresting anyone, not scared.

18 (Exhibit published.)

19 Now, folks, let's talk about the aider and abetter
20 jury instruction in this case. Jury Instruction 21.

21 Again, it is not enough that Steven Stewart merely
22 associated with persons committing crimes, or unknowingly or
23 unintentionally did things that were helpful to that person, or
24 was present at the scene of a crime. The evidence must show
25 beyond a reasonable doubt that the defendant acted with the

1 knowledge and the intention to help that person commit a crime,
2 folks.

3 Well, the Government is saying that Eric Parker was
4 up on the bridge committing crimes and that Steven Stewart was
5 up there helping him. I submit to you no crimes were
6 committed. None.

7 And first of all, there's no spotter that's really
8 even up on the bridge; right?

9 Agent Johnson, he testifies ultimately that it's
10 possible to say what he thought was a view finder or range
11 finder of some kind, it was possible it was a video camera.

12 Folks, you don't convict people on possibilities and
13 maybes. You must be firmly convinced.

14 (Exhibit published.)

15 And if agent spotter somehow -- or Agent Johnson
16 somehow saw a spotter, right, let's look at this picture of
17 Steven Stewart where there's nothing in his hand except for the
18 gun which is below the Jersey barrier and the person to the
19 right of him in the white shirt holding something to his face.

20 The reality is, folks, Steven Stewart, he did nothing
21 more than this guy in his blue shirt (indicating), this guy in
22 his white shirt (indicating), or this guy in his blue shirt
23 (indicating), or this guy in his blue shirt (indicating). And
24 look at the government, his government, your government,
25 pointing weapons at him. That's it.

1 (Exhibit published.)

2 Now the Government says that this post, this post on
3 September 16th, 2014, this post proves that Steven Stewart was
4 Eric Parker's lookout; right?

5 Folks, you heard Eric Parker. You heard his
6 testimony. What did he tell you? He was trying to make Steven
7 look cool.

8 People kept calling him the Bundy Ranch Sniper.
9 Steven didn't have binoculars. Trying to make him look cool.

10 (Exhibit published.)

11 And let's talk about this post. Talks about a scope.
12 Sure does. It says, "It's been a long day. What's up? I've
13 have a little earlier with a really high-powered scope show me
14 "F" asterisk awesome."

15 What's key there, folks? "Show me." Just like
16 Eric Parker told you. When they get to the parking lot, they
17 are shown a scope. They're shown this retractable scope. They
18 look at it, Eric and Steve, from the parking lot -- not from
19 the bridge -- and what do they see? Snipers. Snipers up on
20 the mesa. Hand the scope back to the lady. Head for the
21 bridge.

22 (Exhibit published.)

23 The reality is, folks, if Steven Stewart was a
24 spotter or aider and abet, he's the world's worst. Here's four
25 pictures where Steven's not even in it. If he's Eric Parker's

1 spotter, where is he here, folks? Well, like, Eric told you,
2 Steve was moving all over the place, not really sure where
3 Steve was.

4 The reality is, folks, as Eric told you, he was
5 spotting girls. When he wasn't looking at his government
6 pointing weapons at him, as Eric told you, he was hitting on
7 the girls, talking to the girls.

8 Is that actions that lend themselves to any kind of
9 criminal activity, the intent to assault, the intent to
10 threaten to impede, to obstruct? No.

11 We heard Steven's video. Mr. Dickinson played that
12 for us. I won't play it again. But, as Agent Draper
13 testified, at that point I asked her, he was yelling and
14 screaming and sounding angry and violent, or was he sounding
15 more like someone who was wise-cracking? She said, "If I had
16 to choose between the two, it didn't sound like he was going to
17 commit violence, like he was violent at that time."

18 We heard the martyr statement, folks. Again,
19 Agent Draper's testimony. "But again, fair to say that he's
20 not threatening anybody in that statement; correct?"

21 "In that statement, at that time, on that video, I
22 did not hear him threatening someone."

23 As Steven said in that video, they couldn't gas us.
24 We were going to be martyrs if they wanted to continue this.

25 That doesn't mean he was ready to kill. That means

1 that he was willing to stand up for what he believed in in the
2 face of chemicals, even it if it meant he would die.

3 Let's talk about the court order in this case, folks,
4 Exhibit 6.

5 Court order signed by Judge Larry Hicks. Court order
6 that says, "It's further ordered that Bundy shall remove his
7 livestock from the former Bunkerville allotment within 45 days
8 of date hereof and that the United States is entitled to seize,
9 and remove to impound, any of Bundy's cattle that remain in
10 trespass after 45 days of the date hereof." That's the order,
11 folks. Let's break it down.

12 The cattle in this case, that's the government's
13 property. The gather and the impound, that's the due
14 administration of justice in this case, the gather and the
15 impound.

16 The gather and the impound is also the law
17 enforcement duties. This order sets it out. This order that
18 the Government relies on, time and time again, this order sets
19 out those three components. Why is that important?

20 Let's look at the extortion count.

21 First, the defendant induced someone to part with
22 property by the wrongful use of actual or threatened force,
23 violence, or fear; and second, the defendant acted with the
24 intent to obtain property.

25 Again, the property is listed in this instruction.

1 In the obstruction count, Jury Instruction 15 tells
2 us first the defendant influenced, obstructed, or impeded, or
3 tried to influence, obstruct, or impede the due administration
4 of justice with the intent to obstruct justice

5 The gather and the impound, that's the administration
6 of justice in this case, folks

7 Conspiracy to impede, to provoke --

8 MR. MYHRE: I'm going to object, Your Honor, to
9 that -- also to that line of argument and that -- that's a
10 legal determination and that's arguing the law.

11 MR. TANASI: Your Honor, I'm laying out, for the
12 jury, the Court's order in this case which is an exhibit the
13 defendants -- or the Government has laid out and that order is
14 what makes up the basis for the three counts; conspiracy,
15 obstruction, and impeding. That order is what makes up the
16 basis for law enforcement's duties.

17 THE COURT: You can't provide a legal interpretation
18 of the order. We had an attorney here and if that attorney
19 didn't provide that legal interpretation, then that's not facts
20 in evidence. It would be a legal argument that you can't make.

21 MR. TANASI: I'll move on, Your Honor.

22 This case, folks, the point I'm trying to make, is
23 the operation was over on April 11th. Operation was over.

24 How do we know that? Well, Agent Stover, he
25 testified. So let's go back to the operation in this case, the

1 operation or the goal was to transport cattle; fair?

2 Part of the operation included the transportation of
3 cattle, yes.

4 Okay. In this case, in fact, the cattle wasn't
5 ultimately transported; correct? Not in the incident command
6 post.

7 Okay. One of the reasons it wasn't actually
8 transported was because of political pressure; correct?

9 That's my understanding, political pressure.

10 Political pressure in this case, folks, also came
11 from the county commissioner. Political pressure is what ended
12 the operation in this case, folks.

13 Operation was over, on the 11th. Special Agent Love
14 or the director of BLM, they make any decision with respect to
15 the continuation of the operations, they did. At the end, of
16 the call they determined that we were going to conclude
17 operations and stop gathering cattle. That's on the 11th,
18 folks. On the 11th. Before Steven Stewart's even in
19 Bunkerville. They're already deciding to end the operation.

20 Agent Brunk, he came in and he testified and he told
21 us in his briefing the night before we had been told that we
22 were going to be moving out, that we were going to conclude the
23 operation, and that we were going to try to get the cattle out,
24 and then we'd all leave.

25 Agent Novotny, right here in the middle (indicating).

1 "All operations ceased on the 11th; correct?"

2 "Correct."

3 Before Steven Stewart even got there.

4 Agent Shilaikis.

5 He says, "On the 11th we were notified that we were
6 standing down. One of the pilots, contract pilots for the
7 helicopter had a friend that had been killed in a helicopter
8 crash during that time. There was going to be a funeral on
9 that Saturday." So they ceased operations.

10 Ceased operations because, in part, of political
11 pressure. Because, in part, of this helicopter tragedy. Not
12 at all because of Steven Stewart, folks.

13 Sheriff Gillespie.

14 He gives a speech, a speech we've all heard and I
15 will not play it again, but I will quote it.

16 "I believe a press release has already been put
17 forth. The BLM is going to cease this operation. The Gold
18 Butte allotment will be opened to the public and they" -- the
19 BLM -- "will be removing their assets here in Clark County."
20 That's his quote. His words.

21 Now, at this speech, folks, Steven Stewart's there.
22 He hears this speech. He does. What does he think when he
23 hears this speech? What's in his head?

24 Well, he tells us on Facebook. "First, they said
25 they were going to release everything and leave." That's what

1 he believed. "Then they held the gates of Gold Butte and
2 threatened us with chemicals. Then we pushed forward and they
3 had to back off. They're releasing the cows now. The BLM is
4 leaving."

5 The plan, folks, as Eric Parker told us, was to watch
6 the cows come home when they got to the bridge. That was the
7 plan.

8 Now, there are three counts with firearms. Okay?
9 Counts Six, Count Nine, and Count Fifteen, and those are all
10 premised on one thing: That you believe, beyond a reasonable
11 doubt, that Mr. Stewart used a firearm, brandished a firearm,
12 in relation to committing a crime. And as I've told you folks,
13 there is not enough evidence in this case, in this world to
14 convict Steven Stewart of any crime. Because he committed
15 none.

16 Jury Instruction 18.1, folks, that's the brandishing.
17 Same as the last one we just discussed.

18 Now, folks, you heard from Eric Parker. He bravely
19 took the stand and he testified in this case. And you heard
20 his Long Bow. That sham, that lie the Government came up with
21 in order to bait him into a discussion. And you heard
22 Scott Drexler's Long Bow as well, under that same sham, that
23 same lie, that same pretense, Long Bow. But you didn't hear
24 one from Steven Stewart. No, because as the agent said, he was
25 being a good dad and taking care of his kid for her birthday;

1 right? You didn't hear that. And you didn't hear
2 Steven Stewart testify either. And some of you might be
3 sitting there thinking, I should have heard from Steven; I need
4 to hear from Steven. Otherwise, I have to find him guilty.
5 Right? This jury instruction tells you, folks, that a
6 defendant in a criminal case has a constitutional right not to
7 testify. You cannot draw any inference of any kind from the
8 fact that the defendant did not testify in this case.

9 And so when you're back in that room deliberating, if
10 any one of you says, I should have heard from Steven, then your
11 duty is to report that to the marshal and to get that to the
12 judge, because that's in violation of this order. That's how
13 serious it is, folks.

14 And the reality is, you have heard from Steven.
15 You've seen his Facebook. You've heard the video. Why would
16 he get up there and testify? Why would he get up there and
17 expose himself to good government lawyers, wordsmiths, who
18 would take his words and twist them up and make them something
19 that they're not, just like they're trying to do with his
20 Facebook, folks.

21 "Heading to Nevada. Going to stand up with my fellow
22 countrymen against a corrupt government." That's what this
23 case is about. Took his gun there, folks, so that he wouldn't
24 get bullied by the government.

25 Folks, he took his gun because he can. He protested

1 because he can, the First and the Second Amendment. The
2 Constitution was alive and well in Bunkerville in April and,
3 folks, show the Government that the Constitution is alive and
4 well here.

5 MR. MYHRE: Objection, Your Honor.

6 It's a --

7 MR. TANASI: Show the Government that the
8 Constitution is alive and well --

9 MR. MYHRE: Objection, Your Honor, with respect to
10 arguing about the Constitution, showing the Government that
11 it's alive and well. That's improper argument.

12 MR. TANASI: Your Honor --

13 THE COURT: Mr. Tanasi, the jury has been given the
14 legal instructions that apply to this case, so those are the
15 legal instructions that you can argue but not outside of those
16 provided to the jury.

17 MR. TANASI: Understood.

18 One of those instructions, folks, is that you must be
19 firmly convinced that there is crime in this case. Show the
20 Government, show the Government that that hasn't happened here.
21 Hang [sic] your head proudly and come back into this room --

22 MR. MYHRE: Objection, Your Honor. He can't argue
23 about showing the Government anything. It's whether or not the
24 evidence meets the standard of proof.

25 THE COURT: Sustained. That's correct.

1 MR. TANASI: Folks, the Government is asking you in
2 this case to find guilty verdicts because they believe that the
3 evidence meets the reasonable doubt standard. Show them that
4 it hasn't. Show them that it hasn't and return not guilty
5 verdicts on all counts.

6 Thank you.

7 MR. MARCHESE: Do you want the next one, Your Honor?
8 I'm up next.

9 THE COURT: I didn't know who was going next.

10 MR. MARCHESE: Okay.

11 THE COURT: All right.

12 Does the jury need a break or do you want to keep
13 going? Raise your hand if you want -- if you need a break.

14 (No hands raised.)

15 THE COURT: All right. So, we're fine.

16 MR. MARCHESE: Just -- just as a point, I might be
17 30, 40 minutes, if that's okay.

18 THE COURT: Just a 40-minute break? Is that what you
19 said?

20 MR. MARCHESE: No. I'm saying. I'm going to be 30,
21 40 minutes.

22 THE COURT: Okay. I was going to deny your request
23 for a 40-minute break.

24 MR. MARCHESE: No. That's fine.

25 THE COURT: Did you want to move the podium?

1 MR. MARCHESE: Yes, please.

2 THE COURT: Go ahead.

3 (Brief pause in proceedings.)

4 MR. MARCHESE: May I proceed, Your Honor.

5 THE COURT: Yes, you may.

6 MR. MARCHESE: Thank you.

7 Counsel for the Government, thank you, counsel for
8 the defense, ladies and gentlemen, it's been a long odyssey.
9 It's been a little over two months now. Literally I was clean
10 shaven when this trial started. I think if you can remember
11 that far back, but this is my last opportunity to speak for you
12 or speak to you, my closing argument, and tell you why I
13 believe that you should return not guilty verdicts for
14 Eric Parker.

15 I have a confession to make. When I first got this
16 case, one thing came to mind about Eric Parker. Do you want to
17 know what that is?

18 He's nuts.

19 I apologize, buddy, but that's the truth.

20 I heard about some guy from southern Idaho that jumps
21 in this truck with two of his buddies and drives down to
22 Bunkerville, someplace he's never been, to a bunch of people he
23 doesn't know, to protest. I think to myself, what -- what is
24 going through this guy's head? I mean, my son is five years
25 old. If I go into the refrigerator and I'm pouring him his

1 Cocoa Puffs in the morning and I don't have any milk, I get
2 upset because I have to drive 15 minutes round trip to
3 Albertsons to get him milk, but yet this guy, and his buddies,
4 they're driving 13 hours.

5 So, but then I started getting into the case. I
6 started looking into the discovery, I started talking with
7 Eric, and I started getting the backstory here. And, you know,
8 you obviously heard what Eric testified to, and we're going to
9 get into that for a moment, but I started getting into the
10 backstory and I started --

11 MR. MYHRE: I'm going to object, Your Honor, to him
12 arguing about what he did or his personalized knowledge or
13 personalized experiences.

14 THE COURT: Sustained.

15 MR. MARCHESE: I started looking into why Eric came.
16 And you heard him testify as to why that was.

17 Bryan.

18 (Exhibit published.)

19 One of the first things in which you heard was
20 martial law. Martial law was declared in Bunkerville, and that
21 the government had basically shut down this small town so that
22 they could do this roundup of cattle or whatever was going on.
23 All these small town people were basically caught in their
24 little box.

25 MR. MYHRE: Objection, Your Honor, to facts not in

1 evidence.

2 MR. MARCHESE: Yes, it is, Your Honor. They -- the
3 jury can go and -- off of their own memories.

4 THE COURT: The jury's memory will -- the jury is
5 instructed to follow your own memory of the facts.

6 MR. MARCHESE: He heard about that.

7 Bryan.

8 (Exhibit published.)

9 And then he heard about, what you saw from his
10 Facebook posts. He saw the Dave Bundy video, and he heard
11 about what happened there, that it was Eric's belief that a man
12 was, in fact, arrested for just simply taking photos on the
13 side of the road, that they mashed his face into the ground and
14 as you can see, he was clearly injured as a result of it.

15 And he saw this meme. This also goes along with what
16 I just provided to you.

17 And then, I'm not going to play the videos for you
18 because you just saw a little bit of it and I believe you'll
19 probably hear from some of the other counsel, or even
20 Mr. Engel, saw and heard about the Margaret and Ammon incident.

21 Now, there's something important about this.

22 Now -- and I don't know if you've made this
23 connection, but it came out through the evidence.

24 Margaret Houston is Ammon Bundy's aunt. Now, this incident
25 started out where Margaret is in front of that convoy and the

1 Government can argue that Ms. Houston was, in fact, in front of
2 the convoy and that that was why she was thrown out of the way.
3 I would submit to you that's not what the evidence shows.
4 You'll have every opportunity to view the videos, should you
5 like, if what you see here in court is not enough for your own
6 mind. So, as a result, Margaret gets thrown down. She gets
7 thrown down onto the ground. And as you can see, she's clearly
8 not in front of the convoy at this point.

9 Bryan.

10 (Exhibit published.)

11 In addition, you then see her nephew, Ammon Bundy, he
12 drives into the area, into his ATV -- the Government is going
13 to argue that he blocks this convey or whatever the case may
14 be -- but I'm going to argue what he did was what most other
15 people would do, and that is he came to the aid of his aunt
16 that just got slammed onto the ground.

17 You also see that there's a large BLM presence.
18 There's at least two dogs there. As you can see in this
19 particular screenshot, that's when the agent is siccing the dog
20 on Ammon. I will leave it up to your beliefs and what you
21 believe the evidence shows. I will leave it up to you as to
22 what Mr. Ammon Bundy's threat level or whatever it was at that
23 particular time. But these are the things that Eric Parker is
24 seeing.

25 He also saw the First Amendment zone. And this is

1 what, as you heard the testimony, both Long Bow and up on the
2 stand, this is one of the things that really made him get
3 upset. Because it was Eric's belief that the First Amendment
4 isn't just a little box. No, the First Amendment isn't a box;
5 it's where your feet are, ladies and gentlemen. People should
6 have that right to protest. So this is the point when Eric
7 makes a decision. He starts seeing these things about the
8 First Amendment and he makes this decision to now go down to
9 Bunkerville.

10 And you heard that he saw this statement, saw this
11 statement on Nevada.gov, from Governor Sandoval, speaking about
12 the BLM roundup and Eric read this and Eric saw the fact that
13 Mr. Sandoval said that it was most disturbing to him and as a
14 result, Eric then made the decision to come down to
15 Bunkerville.

16 And you saw Eric's Facebook posts right about the
17 time when he made that decision and he said if he is not secure
18 in his rights, then I am not secure in mine. Ladies and
19 gentlemen, he saw all these things and he took them into
20 account and it bothered him. It clearly bothered him that --
21 what was going on there. So he made the decision to go down
22 and protest.

23 You heard him on the stand. What did he say? He
24 said, "They were hurting people. I tell my kids that you have
25 to stand up for your neighbor and you have to be there for each

1 other." And he said, "If I didn't do that, then I'd be a
2 hypocrite." He felt that it was his duty. He felt that it was
3 his obligation to go there and to show force, as the Government
4 would say, and also, Eric would say.

5 And what did he do when he came there? Now,
6 obviously we know. It's pretty much uncontroverted that he
7 went down with his buddies Steven and Scott, but here's nothing
8 that he saw, because there's been a big contention about the
9 fact that Eric was armed and I want to talk about that. What
10 did he see? He saw this Tom Collins individual who said that
11 people going to protest at the Bundy ranch better bring funeral
12 money and body bags. And based upon this, and you heard this
13 from the statements, Eric did two things; he brought his gun
14 and he brought his body armor.

15 Now, we have to remember where Eric Parker's from,
16 who he is. You know, in a city like Las Vegas, it's probably
17 out of the ordinary to see some guy walking around with a long
18 gun, but we're talking about guys here from southern Idaho,
19 much different area and place than what we're talking about and
20 what we're used to typically. Even when Eric was arrested,
21 what did he have on him? He was on his way to work, ladies and
22 gentlemen. He had no idea that the FBI were coming for him.
23 What did he have in his car -- or his truck? Excuse me. He
24 had a gun. Because that's just what guys from Idaho do, ladies
25 and gentlemen.

1 You even heard Mr. Drexler in his Long Bow interview,
2 he said something very similar.

3 So, I want it to be clear, now, of course, the
4 Government and myself, we're going to argue as to how that gun
5 was or was not used, but the fact that he had a gun, ladies and
6 gentlemen, maybe it goes to his intent and what he was going to
7 do or something along those lines, but I'm going to tell you,
8 ladies and gentlemen, that's just another day at the office for
9 a good 'ole boy from southern Idaho.

10 Now, these guys are a little different. They're a
11 little different in their background, like I said, and that's
12 what's great about America. You go from a place like southern
13 Idaho or Bunkerville, kind of a small town and then maybe you
14 go to a place like New York City, where it's literally night
15 and day, but yet, we're in the same country, and that's the
16 beauty of it.

17 So, you see a protest in New York City and people are
18 probably going to have signs, but that's not what these guys
19 do. Some people protest with signs, other people protest with
20 guns. And you heard the reasons for that. Mr. Tanasi just
21 talked about it. Mr. Drexler also talked about it on his
22 Long Bow interview. But that's the difference and I urge you
23 to keep that in mind, and keep an open mind, that a gun rack is
24 something that is very common most likely in southern Idaho,
25 whereas, if you see a gun rack in a major metropolitan area in

1 a pickup truck, not the same thing, ladies and gentlemen. Same
2 country, different areas. Different cultures, different norms.

3 Now, you heard this Long Bow interview. I'm going to
4 play a couple clips for you. The first one I want to play is
5 about the militia, which the special agent -- I forget his
6 name -- he asked Eric some questions about that and I want to
7 play that for you and afterwards I'm going to comment on it a
8 little because I think it's very important.

9 (Exhibit published.)

10 MR. MARCHESE: I'm going to stop it for a second.

11 It's actually the end of the clip I wanted to show,
12 not the beginning, but regardless, you heard it and you'll have
13 the opportunity to look at it again should you wish.

14 Here's the important part. Government has every
15 right to use undercovers. Not a problem. Government has every
16 right to use fake names, to use ruses, whatever they want to
17 do. Not a problem. Completely legal. That's not the issue.
18 You have the jury instruction. You're welcome to look at it.
19 Here's what's offensive to me, ladies and gentlemen.

20 MR. MYHRE: Objection, Your Honor, as to what's
21 offensive personally.

22 MR. MARCHESE: Here's what's offensive in general,
23 ladies and gentlemen. That agent gets up there and he talks
24 about there was drinks and there's refreshments and things like
25 that. Mr. Jackson did an excellent job in cross-examining him

1 about that, and I don't think that that's a huge deal. These
2 are all adults. To my knowledge they're all over 21, but
3 here's the issue. He sits up there and he talks about how they
4 had the opportunity, they were all given potato chips and M&Ms
5 and all that. How come I didn't see anyone getting offered on
6 these videos potato chips and M&Ms? How come I didn't see
7 anyone eating potato chips and M&Ms? He's trying to sanitize
8 what actually went on there. But what's even more offensive,
9 or what you should find offensive, is the fact that he's up
10 there and he keeps trying to put words in everyone's mouth. He
11 asked Eric Parker, "Are you in the militia?" He clearly says,
12 "I'm not in the militia." And he says, Oh, well, then don't
13 you train with the militia? Aren't you -- don't you know some
14 of the militia? And he does. He admits, yes, I do know some
15 militia. He said something about training with them. But once
16 again, Eric, he goes ahead and he explains himself and he says,
17 "Listen, some militias are good, some militias are bad. Some
18 militias are crazy racist guys that want to blow up the
19 government, and others ones are okay, but I'm not into getting
20 into any agendas." So what does he do at that point? You
21 know, Mr. I-don't-want-to-put-words-in-your-mouth, he once
22 again asks him, "Oh, so, you're like a militia of one?" Keep
23 trying to push the narrative, ladies and gentlemen. Trying to
24 twist the words. I mean, he gets up there and he says, Oh, we
25 weren't trying to put words in anyone's mouth. Listen to the

1 videos. He constantly says it. "I don't want to put words in
2 your mouth, but . . ." Well, no, that's exactly what you're
3 trying do, ladies and gentlemen.

4 I wasn't sure if this guy was an undercover agent or
5 if he was a used car salesman selling defective cars to senior
6 citizens.

7 We've also had a lot of talk about credibility and
8 perception in this case. You saw Mr. Parker get up on the
9 stand. Mr. Dickinson, a very worthy adversary, cross-examined
10 for an extensive period of time in reference to what he saw and
11 heard on that day. And he brought into question Eric's
12 credibility. He brought into question his narrative about what
13 he saw and what he heard.

14 Now, I'm not going to play you the speech of the
15 sheriff again. We've heard it many, many times. You all can
16 play it if you like in the back, but at this juncture you
17 probably all can go ahead and recite it verbatim if you wanted
18 to at this point, but here's the important thing. We've had
19 numerous witnesses, some from the Government I might add, such
20 as Alex Ellis, believing what Eric Parker believed, and that is
21 that the BLM was leaving.

22 We look at the Flynn videos. There's the one video
23 where that guy is -- I believe Mr. Dickinson played a part of
24 it -- where he's yelling and screaming at the Department of
25 Transportation and all that nonsense, but there's a lady on

1 there says, "That's not the BLM. They left."

2 We hear Michael Flynn. Now, we didn't hear from him
3 because unfortunately he's passed away, but we heard on his
4 video, when Michael Flynn is probably just as close, if not
5 closer, than the greater majority of the people in the wash,
6 when he's up under the bridge and he's looking, he's saying,
7 "Oh, my God, they just said they're going to use lethal force.
8 The Army guys said they're going to use lethal force." Now,
9 I'm not going to misrepresent the record here, ladies and
10 gentlemen. I do have a job to do, but I'm also an officer of
11 the court. I'm not telling you that at any point in time that
12 Mr. Johnson or anyone else from the BLM, to my knowledge at
13 least, that I could see or hear --

14 MR. MYHRE: Objection, Your Honor, as to the
15 references to his personal knowledge.

16 MR. MARCHESE: I'm trying to say -- okay.

17 I'm cleaning up the record, Your Honor. If he wants
18 to -- I mean, it's getting absurd at this point.

19 THE COURT: Just refer to people in general or just
20 not yourself.

21 MR. MARCHESE: It's fine. I will keep going on and
22 he can keep objecting.

23 At the end of the day, no one said "lethal force."
24 That's not the point, ladies and gentlemen. You know what the
25 point is? Is that people perceived that. People heard it.

1 And they attacked Eric's credibility on it and you should keep
2 that in mind, that he's not some crazy person out to lie, and
3 we know that because what he testified to is buttressed by the
4 testimony and the facts and all the evidence here.

5 Now, we also heard issues about this court order.
6 Now, we've heard varying degrees of testimony, whether people
7 were supposed to be in the wash, whether they weren't. At the
8 end of the day, ladies and gentlemen, let's just look at the
9 big picture here. It's windy. They're in this tunnel.
10 There's the echo going back and forth. It's very hard to hear.
11 You heard Mr. Dennis Michael Lynch get on the stand. You saw
12 his video saying, "Are you going to shoot us?" "I can't hear
13 you." The confusion, ladies and gentlemen. The fact that
14 Dennis Michael Lynch, Michael Flynn, Alex Ellis,
15 Shannon Bushman, all these other people were, in fact, a little
16 bit confused based upon the facts and circumstances in the
17 case, you should keep that in mind when weighing the
18 credibility of Eric Parker's testimony.

19 We also have a Facebook post from Eric Parker in
20 reference to that. "Bundy gave the sheriff one hour to disarm
21 the BLM."

22 Well, what do we know? It wasn't the BLM, ladies and
23 gentlemen. He never said that. He said the National Park
24 Service is what Mr. Bundy said. So based on that, it just goes
25 more into my narrative about the credibility, how there was a

1 lot of confusion going on on that day and how people weren't
2 exactly sure what, in fact, was going on.

3 You know, it's kind of like when you watch a movie
4 for the first time and then you watch it maybe a few months
5 later and then suddenly you're like, Did I even see that movie?
6 When did I miss -- did I miss that part? Was I out getting
7 popcorn or going to the restroom? The perception now, three
8 years to the day actually, today, as we sit in court, three
9 years ago versus today.

10 The Government is trying to make this case a
11 conspiracy, and that's their job. That's what they're supposed
12 to do. They're supposed to prove a conspiracy beyond a
13 reasonable doubt. Now, the Government really focused on the
14 cattle and the cows and I would submit to you that the evidence
15 is different. The evidence is not just about cattle and cows
16 and we, my first, I don't know, hour or two of the testimony
17 with Eric going back and forth was going over all the other
18 reasons that I just talked about; First Amendment zones,
19 Margaret Houston, Dave Bundy, et cetera. This conspiracy, the
20 Government is hanging their hat on the fact that yes, they all
21 went to the Bundy ranch and then basically, for lack of a
22 better term, Eric Parker and his buddies were parking
23 attendants. They stood there. They manned a gate and they
24 told people where to park. I mean, that's really it. Let's
25 not overcomplicate this case, okay? It's not about cows.

1 Eric Parker's motivation was not about cows; it was all these
2 other things.

3 They also make some references to Ricky Lovelien,
4 that they happened to be standing next to each other. They
5 show that picture at the rally where Eric is standing there. I
6 believe there's a lady with white pants on and he's standing
7 there. And we fully and freely admit that they have proven --
8 actually Eric testified to it -- that at some point in time
9 Eric did get in Ricky Lovelien's truck. He didn't know this
10 man. Had nothing to do with this man. As a matter of fact,
11 you even hear that Eric was unable to identify who that guy
12 was.

13 (Exhibit published.)

14 Ladies and gentlemen, the video speaks for itself. I
15 don't really need to comment on it. Just three quick things.

16 First of all, if you notice, the agent on there, once
17 again, trying to inject the militia in thereafter Eric Parker
18 has clearly disavowed being in a militia. As a matter of fact,
19 even the Michael Flynn video, when he's on the bridge and
20 Steven's hitting on the girls, he even says, "Are you in a
21 militia?" and he says no. But once again, controlling the
22 narrative by the Long Bow interviewer.

23 Also, going back to my credibility and perception
24 point. The evidence in this case does not show the two good
25 'ole boys parked their trucks across the bridge. There was one

1 truck at one point and, in fact, that individual did move and
2 the traffic slowed down because NHP put it in one lane as
3 opposed to both lanes going forward. So, once again, I'm not
4 saying that Eric was necessarily lying, but more that his
5 perception was a little bit off of what actually transpired on
6 that day

7 And then lastly, one of the supposed "ringleaders,"
8 Ammon Bundy stating something to the effect of, well, I can't
9 control these people. I mean, it shows the fact it was -- to
10 use Eric's own word -- chaos. There was no organization.
11 Ammon Bundy was not some, you know, tactical general putting
12 people up on bridges and in the corners under bridges and
13 things along those lines. That never happened, ladies and
14 gentlemen, and the evidence and the facts do not support it.

15 We've also heard a lot of testimony and evidence
16 about the BLM being outgunned and I'm not going to go ahead and
17 show you all the exhibits and all the evidence. You saw the --
18 the planes and helicopters, and the people on the mesa, and you
19 saw the SWAT trucks, and you saw Metro in the middle of the
20 area between northbound I-15 and southbound I-15, and you saw
21 the NHP, and you saw all the trucks and the BLM guys pointing
22 their weapons.

23 The Government is making the assumption or the
24 assertion -- excuse me -- that they were outgunned, that these
25 individuals in the wash that I would argue, yes, some of them

1 had guns, sure, the evidence does show that. We saw the dot
2 exhibit that the -- I believe it was Agent Simpkins went
3 through. Many of the people are just walking forward. I would
4 argue very slowly. I would argue peacefully. You can make
5 that determination, ladies and gentlemen. But I also want to
6 talk a little bit about some of the people.

7 Now, Mr. Tanasi talked about fear, manufactured fear.
8 So I don't want to be too redundant, but I do want to talk a
9 little bit about some of the individuals that came in here.

10 Let's remember the stage. Let's remember the night
11 before, okay? The greater majority of the BLM agents were on
12 duty for a very long time because there was this supposed
13 imminent threat that was coming their way. And if we remember
14 correctly from the testimony, that never, in fact, transpired.
15 So these guys are already kind of hyped up, okay? I would
16 argue, if you don't sleep, if you're not eating properly, that
17 you're not in your right frame of mind. And they're being
18 given information that is obviously incorrect.

19 I would also argue that whatever information Trooper
20 or Sergeant Serena, from the NHP was given, was also incorrect.
21 That man was driving over a hundred miles an hour calling his
22 wife before anyone was even in the wash, ladies and gentlemen.
23 There was no one even there and whatever information this
24 individual was told, he is so hyped up and scared, allegedly,
25 that he's driving like a bat out of hell.

1 Let's stop for a second and look. You know, I know
2 this case, it's big case, we've been here for a long time, a
3 lot of witnesses, a lot of evidence, all that stuff. At the
4 end of the day, ladies and gentlemen, I would argue -- let's --
5 let's get a timeout here. No one was shot. No one was hurt.
6 No one was injured. It's much to do about nothing. It's a lot
7 of confusion on both sides. At the end of the day,
8 fortunately, no one was hurt, and that's the important thing
9 here, ladies and gentlemen.

10 Now, of course, I have to address the pictures, as
11 you know, because we've seen them and I'm sure Mr. Myhre, when
12 he does his rebuttal argument to me, is probably going to
13 reference them just as Mr. Dickinson did, and that's what they
14 should do to prove their case

15 Let's talk about that bridge. We've seen all the
16 pictures. It's about 150 yards away or so I think the
17 testimony of Mr. Simpkins was. I mean, it's going to depend on
18 the vantage point in the wash. But that's -- 150 yards, that's
19 a long ways. Fortunately -- I was going to go over my
20 screenshots that we've shown you. I did it with Eric and then
21 I believe we did it with Agent Shilaikis as well, but I would
22 argue that the Government has conceded that Eric did not, in
23 fact, point his weapon at the BLM at the time when they said
24 that he did over the Jersey barrier, okay? He was just
25 standing there. Was he up and down? Yes. I'll own that. The

1 Shilaikis videos show that. There's some pictures that show it
2 as well. We own that. We own that Eric was up and down. You
3 heard his testimony as to why he was up and down. You can
4 determine your credibility. You can look at it however you
5 like.

6 But, at the end of the day, let's look at a few
7 things. Let's look at the viral nature of those photos. A
8 greater majority of the reports in this case were written after
9 the fact, okay? Two, three days, depending on who. As we
10 know, Eric's picture went viral. He testified to it. I
11 believe there might have even been some testimony from some of
12 the other people, the guy with the trucker hat, the black
13 insignia and all that.

14 Now, yes, there was a little bit of radio traffic
15 about the guy with the trucker hat and the white insignia, but
16 there was no radio traffic on Exhibit 157 that said that he was
17 pointing his weapon at anyone. He said he had it, a long gun.
18 Said he had a flack jacket. We own that; we concede it. But
19 there was nothing about him pointing his weapon. He's just
20 simply standing, 150 or so yards away, on a bridge, holding his
21 weapon. Sometimes kneeling. Sometimes not kneeling.

22 And if we go to Exhibit 129, Bryan.

23 (Government Exhibit 129 published.)

24 And there is one of the pictures.

25 If we can go to the next one.

1 (Exhibit published.)

2 There's another picture. We own it. We're not going
3 to insult you. That is Eric Parker. He is on that bridge. It
4 was Bunkerville. It was three years ago today.

5 However, I get how those pictures look. Okay? I
6 understand. But just bear with me for a moment.

7 Can we get the next one, Bryan.

8 (Exhibit published.)

9 First of all, this is -- I mean, it's not all the
10 BLM's vantage points, but it's some of their vantage points.
11 And this would be the general vicinity, somewhere along here
12 (indicating). I think that's a crack right there. That might
13 have been where Eric Parker was or somewhere around here. One
14 of these two places on the screen, the general vicinity.

15 What's important from this picture is, is that you
16 can't see Eric Parker from there. You can't see Eric Parker's
17 gun from there. The testimony from Eric was that the Jersey
18 barrier is kind of thick. Therefore, the barrel of his gun
19 would not protrude from that Jersey barrier, from that little
20 crack there. And why is that important?

21 Can we get the next one, please, Bryan.

22 The instruction.

23 (Exhibit published.)

24 You're going to get this instruction. And I believe
25 Mr. Dickinson even -- even alluded to a little bit and that is,

1 "A reasonable apprehension of immediate bodily harm is
2 determined with reference to a reasonable person aware of the
3 circumstances known to the victim. Circumstances unknown to
4 the victim are not included."

5 Well, what does all that legal gobbledygook mean?

6 The best way I can explain it to you is give you an
7 example. Remember when I called my client nuts at the start?
8 Let's say he hears that. And let's say he gets up from his
9 chair. And he's -- he's irritated and he's getting ready to
10 hit me in the back of the head and just before he does it, just
11 as he clocks back, he stops because he heard the rest of my
12 statement. He's like, oh, okay. I'm okay with that.

13 Now, when that was going on, I'm talking to you, I'm
14 making my argument to you. I never saw it. I never heard it.
15 I was completely unaware of it. I make my argument. I sit
16 down. And then Tanasi goes to me and he goes, Hey, do you know
17 what just happened? He was going to punch you in the back of
18 the head and he almost did and then he stopped.

19 Same thing here, ladies and gentlemen. It's a
20 horrible way to describe it, but it's the truth. No harm, no
21 foul. If the agents don't perceive it, if they aren't
22 personally aware of it -- just as that jury instruction tells
23 you -- then there is no crime. And I understand how morally,
24 how ethically you might look at that, those pictures, and be
25 extremely, maybe even offended, annoyed, whatever the case

1 maybe. But, I must warn you and remind you of your duties as
2 jurors, and that's just very simple, to follow the law that
3 Her Honor instructed on you earlier this morning. And I would
4 argue to you that based on this jury instruction, based on the
5 facts and circumstances and the example that I gave to you,
6 that those pictures are by and large irrelevant. All it does
7 is inflame your prejudices to a crime that never actually
8 happened because those BLM agents didn't see him.

9 Hugh Gourgeon, I think there was somebody from -- one
10 of them was from -- somebody from Reuters, the FBI agents,
11 those people, those individuals are not the intended, or the
12 alleged -- excuse me -- victims in this case. Therefore, I
13 would ask that you set those pictures aside and not consider
14 them in reference to a crime.

15 Now, I'm almost done. I promise. But I want to -- I
16 want to play another excerpt of Eric's Long Bow video.

17 (Exhibit published.)

18 Ladies and gentlemen, for once, Mr. Dickinson and I
19 agree on one thing and that is that this is, in fact, a simple
20 case. I mean, you've heard Eric's words. I mean, there's a
21 lot of evidence, but it's probably one of the more important
22 things for you to look at. I mean, look at it all. You know,
23 we -- I have no -- I'm not hiding anything, okay?

24 At the end of the day, you know, I'm a very simple
25 man. These cases usually just come down to what you think. I

1 mean, don't -- don't let the suits fool you. I just like to
2 get right to it and the simple honest truth here.

3 So you're going to go back and your going to
4 deliberate. You'll have the opportunity to look at the jury
5 instructions. You'll have the opportunity to look at your
6 notes. I see a lot of you have been taking diligent notes
7 throughout the trial and we thank you for paying attention and
8 doing that. But, it's really going to just come down to, you
9 know, whether you think that Eric Parker acted reasonably or
10 not.

11 Now, of course, you need to follow the law. I'm not
12 saying that. It's not -- I'm not asking for you to go outside
13 the law. Follow the law. But that's really what it's going to
14 come down to, ladies and gentlemen

15 Now, originally I -- I told you -- you know, I gave
16 you that quote from Eric and I'm just going to leave you with
17 one last quote before I go and it's the last you'll hear from
18 me, and that is, "To believe in something and not to live it,
19 is to be dishonest." And that quote sounds a lot like what
20 Eric Parker said when he testified on the stand. However, that
21 quote's not from him. That quote is from Mahatma Gandhi.

22 Thank you. I'm confident you will do the right thing
23 and you will find Eric Parker not guilty.

24 Thank you very much.

25 THE COURT: All right. Would the jury like a break?

1 It's 4 o'clock. We usually leave here at 4:30 or -- raise your
2 hand if you want a break? We can take a break if you need one.

3 All right. So let's go ahead and let the jury take a
4 break and we'll take a 10-, 15-minute break as well.

5 I do remind you that you're not to discuss this case
6 with anyone nor permit anyone to discuss it with you.

7 Do not read or listen to or view anything that
8 touches upon this case in any way and do not attempt to perform
9 any research or any independent investigation, and do not form
10 any opinion.

11 Go ahead and stand for the jury and we'll welcome
12 them back in about 10, 15 minutes, as soon as they're ready.

13 (Jury excused from courtroom.)

14 THE COURT: All right. Off record.

15 (Recess was taken at 4:00 p.m.)

16 COURTROOM ADMINISTRATOR: All rise.

17 (Jury returned to courtroom at 4:19 p.m.)

18 THE COURT: All right. Everyone may be seated.

19 We're joined by the jury.

20 Mr. Engel, you can go ahead and start whenever you're
21 ready, sir. You'll have to move the microphone.

22 PRO SE ENGEL: Thank you, Your Honor.

23 THE COURT: Because Mr. Marchese bent it the other
24 way.

25 Do you want us to turn that podium, too, so that it's

1 facing the jury?

2 PRO SE ENGEL: It will be fine. I appreciate it
3 though.

4 THE COURT: Okay.

5 And then there's the button where your right hand is.
6 There's a button that makes the podium go up and down, wherever
7 you find it more comfortable.

8 PRO SE ENGEL: I appreciate it. Thank you.

9 Good afternoon, ladies and gentlemen of the jury.
10 It's good to be back up here talking with you again. Forgive
11 me because I'm extremely nervous and a little bit terrified to
12 kind of go with that nervousness.

13 On the morning of the 12th, my friend and I, we
14 pulled into Mesquite at about 8:00 a.m. and we went to a
15 breakfast buffet --

16 MR. MYHRE: Objection, Your Honor.

17 PRO SE ENGEL: -- because we had nowhere -- we had no
18 idea --

19 THE COURT: Just a minute, Mr. Engel. There's an
20 objection so you need --

21 PRO SE ENGEL: Sorry.

22 THE COURT: -- to stop so I can address it, please.

23 MR. MYHRE: He's arguing facts not in evidence.

24 THE COURT: That's true. There's no evidence that
25 you stopped and had breakfast and so forth. So please keep it

1 to the evidence that's actually been admitted in court.

2 PRO SE ENGEL: Sorry, Your Honor.

3 At 8:00 a.m. on April 12th, 2014, I -- my friend and
4 I had no idea where we were going to go. At about 8:30 we
5 finally got ahold of somebody and they told us where we were
6 going.

7 MR. MYHRE: Objection, Your Honor. Again, arguing
8 facts not in evidence.

9 THE COURT: Mr. Engel, please. You need to keep to
10 the facts that are actually admitted in evidence.

11 PRO SE ENGEL: Okay. Well, we arrived at the Bundy
12 ranch approximately 8:45, about 15 minutes before this rally
13 started. We had to park a long way across the bridge and we
14 walked across. We got there 10 or 15 minutes before Cliven and
15 Ammon and those guys started to speak.

16 As you've seen, it was pretty difficult to hear.
17 There was a lot of wind that day. Cliven is not the best
18 speaker. But the Government is trying to say that I entered
19 into some kind of a conspiracy prior to the 12th. They've
20 showed you that I quoted Patrick Henry. I cut and pasted
21 Patrick Henry, a portion of his speech, onto a website or a
22 Facebook page. What they've not shown you, prior to the 12th,
23 is that I had any contact with anybody involved in this case.
24 None of these gentleman back here (indicating), none of the
25 Bundys. They've not shown you one single phone call, one

1 single text message, one single instant message, or one single
2 e-mail in which I talked to any other co-defendants or any of
3 the Bundys prior to the 12th.

4 My entire reason for coming down there, as my
5 Facebook said, is I saw a woman, a grandmother, get
6 body-slammed, and I saw a guy get Tased and an attack dog
7 released on him and I saw this meme of snipers up on a hill.
8 And I saw a First Amendment area sign. I saw these people
9 getting abused because they weren't in their little -- the
10 little box.

11 MR. MYHRE: Objection, Your Honor. Again --

12 THE COURT: There's no evidence of people getting
13 abused. Are you talking about the grandmother and the man?

14 PRO SE ENGEL: Yes, ma'am.

15 THE COURT: Okay.

16 PRO SE ENGEL: And at that point I told my buddy,
17 "Hey, you know, I don't know what's going on down there, but
18 let's go take a peek. Let's go look."

19 So we loaded up our truck with camping gear, threw a
20 couple guns in, threw our golf clubs in, and headed down to
21 Bunkerville to see what was going on and get some warm weather.
22 It's a lot warmer down here than it is in north Idaho in April.

23 Prior to the 12th you've not seen where I've
24 discussed anything about cattle, anything about a BLM compound,
25 anything about a court order. There's not been one shred of

1 evidence that I conspired with anybody about cattle.

2 On the 12th we could hear where we were -- where my
3 buddy and I were standing, we could hear Cliven and Ammon and
4 the sheriff talk and like you've heard from a lot of the other
5 guys, it wasn't clear. It's just --

6 MR. MYHRE: Objection, Your Honor. He's --

7 PRO SE ENGEL: I'm sorry. I'll move on.

8 The sheriff, what he said, it sounded like it was
9 over to us, to me and my friend. Thought it was over. The
10 sheriff didn't tell us --

11 MR. MYHRE: Objection as to what he's -- testifying
12 as to what he thought at the time.

13 THE COURT: Mr. Engel, here's the problem. Even if I
14 were to let you testify about things that are not in evidence,
15 the jury cannot consider them because the jury can only
16 consider the facts that have been provided as evidence before
17 today. So, it has to either have come from someone sitting on
18 the witness stand or some of the documents or videos and things
19 that we saw and heard. So it doesn't necessarily help you to
20 try to provide more information now than what's already been
21 provided because the jury won't be able to consider it.

22 PRO SE ENGEL: Yes, Your Honor.

23 THE COURT: So, please try to only argue the facts
24 that have been admitted and how they should apply to the law in
25 the case so that the jury can reach a fair verdict.

1 PRO SE ENGEL: Well, you folks heard the sheriff say
2 what he said from the stage. As Mr. Tanasi says, you can watch
3 a movie today and watch it tomorrow and you hear different
4 things in the movie that you didn't pick up the first time that
5 you watched the movie. And now that we watched these videos,
6 obviously it's very simple to see exactly what the sheriff
7 said, but that day, in my perception, I thought it was over.

8 MR. MYHRE: Objection, Your Honor.

9 PRO SE ENGEL: I'm sorry.

10 THE COURT: Sustained. And that sentence is stricken
11 and the jury is advised to disregard it.

12 PRO SE ENGEL: Ladies and gentlemen, you heard
13 Cliven Bundy tell the cattles -- tell the cowboys to go get the
14 cows. "Git 'er done." "Let's go git 'er done." You heard him
15 say, "Alls we got to do is open the gate and let the cows out
16 and they're going to be home." It sounded pretty interesting.
17 Let's go watch the cows go home. So we got in my truck and we
18 headed that direction with a big giant crowd of people.

19 When we got there, there was already a big old giant
20 traffic jam. As you've seen, I got out, I pulled my truck over
21 to the side and my buddy and I, we could see an Army over there
22 (indicating). I threw my vest on, threw my rifle on, and got
23 out of my truck, pulled it out of the way. I didn't cause this
24 traffic jam.

25 MR. MYHRE: Objection, Your Honor. He's -- he's

1 testifying as to what he was doing at the time, not what the
2 evidence has shown.

3 THE COURT: Sustained.

4 PRO SE ENGEL: The evidence has shown that I pulled
5 my truck over and got out of my truck. You saw -- everybody
6 has seen that on video. And the evidence has shown, during
7 testimony, that I didn't go towards the BLM; I went out and
8 stood out in the parking area way out in the dirt field. I
9 wasn't next to Dave Bundy when he was talking to
10 Sheriff Lombardo about giving him an hour. I wasn't talking to
11 any of these gentlemen (indicating), and I wasn't talking to
12 any of the Bundys standing out in the middle of that parking
13 area. I was standing as far away as I could get and still kind
14 of see what was going on. I didn't want to be a threat to the
15 BLM. They couldn't even see me standing way out there.

16 MR. MYHRE: Objection, Your Honor, as again, he's
17 testifying to what he saw or what he perceived in the parking
18 area.

19 THE COURT: Overruled. I think he can argue that.
20 It's fine.

21 PRO SE ENGEL: It shows -- the evidence shows that I
22 showed up at 11:29 that morning and stood in the parking area.
23 For almost 25 minutes I did nothing but stand in the parking
24 area.

25 MR. MYHRE: Objection, Your Honor.

1 PRO SE ENGEL: Your Honor, that's exactly what the
2 evidence shows.

3 MR. MYHRE: No, that's -- he can say the evidence
4 shows that. He's saying I stood there and did nothing for 25
5 minutes. There's no evidence of that, Your Honor.

6 PRO SE ENGEL: There's video of it, Your Honor. Me
7 standing in the parking area.

8 THE COURT: I'm going to allow him to argue that, but
9 it's up to the jury to remember the facts and if they hear any
10 facts that are different than what they recall, they are to
11 follow the facts as they recall them.

12 PRO SE ENGEL: Thank you.

13 You have heard multiple people testify that we heard
14 a lady say, "They're pointing guns at people underneath the
15 bridge." I said it in my Facebook. You heard Alex Ellis say
16 it. It's what we heard. It's what I heard. And we go down
17 the freeway to see what the heck's going on. I run down the
18 freeway. And I get down the freeway and I am, I'm standing on
19 the bridge. And you have seen the picture of me standing on
20 the bridge. What was I doing standing on the bridge? I had my
21 camera up. I was videoing. And I couldn't believe they were
22 right. I see BLM agents over there.

23 MR. MYHRE: Objection, Your Honor. What he saw.

24 THE COURT: Is it something -- so, Mr. Engel, if it's
25 something that's in one of the Facebook posts or something like

1 that where you're saying I was there and I saw this and this
2 and this, then obviously you conclude that in the closing
3 argument, but otherwise, if there's no evidence of it anywhere,
4 then you cannot argue it and again, even if you did, the jury
5 cannot consider it so it's not helpful.

6 PRO SE ENGEL: Yes, Your Honor.

7 Folks, you saw me standing there with my camera
8 (indicating) and I pan over. It's in Michael Flynn's video
9 when Eric Parkers's walking behind me. I don't have my hands
10 on my rifle; I'm filming.

11 At that point the Government has shown you guys where
12 the BLM were saying we have a court order. I heard that. It
13 was hard to hear, but I heard it. They said -- I think I heard
14 "disperse." But I also heard "we're going to shoot," as I said
15 in my Facebook post. I stood there for literally a few minutes
16 and I left the area.

17 You have seen, from airplane video and from
18 Agent Shilaikis' video across the freeway, me literally running
19 the opposite direction. I went as far away as I could get to
20 where I could still see what was happening in the wash and I
21 stayed there to watch what was going on.

22 Will you pull up Exhibit 415, please.

23 (Government Exhibit 415 published.)

24 Ladies and gentlemen, that's where I spent the rest
25 of the day, with those law enforcement officers (indicating).

1 You've seen --

2 MR. MYHRE: Objection, Your Honor. Again, he's
3 testifying as to what he was doing there at that day, not what
4 the evidence shows.

5 PRO SE ENGEL: The evidence shows that when the law
6 enforcement officers arrived on the scene, I was standing there
7 and I approached them directly.

8 The evidence shows that I walked up to them and that
9 they walked back in front of their vehicle with me.

10 I stated in my testimony -- in my Facebook that they
11 began to help me. You see me in the video pointing and them
12 pointing and then him getting on the phone, because I am trying
13 to de-escalate the situation as much as I possibly can.

14 The evidence shows in that video that they walk
15 around me. We're conversing constantly.

16 The evidence also shows Ricky Lovelien come across
17 the freeway. That's the first time I've met this guy, and you
18 know what I tell him? "Don't go down there."

19 MR. MYHRE: Objection, Your Honor, as to what he --
20 objection. Facts not in evidence.

21 THE COURT: Sustained.

22 PRO SE ENGEL: He was not my superior officer.

23 MR. MYHRE: Objection, Your Honor. Facts not in
24 evidence and he's testifying.

25 THE COURT: Sustained. Jury will disregard.

1 PRO SE ENGEL: The evidence has shown that I was with
2 Nevada Highway Patrol from 12:18 on his dash cam until 1:20
3 when I walked by them and stayed goodbye and he patted me on
4 the back. It also shows where I came and got them and they
5 walked down the freeway with me, side by side, with Nevada
6 Highway Patrol. We've all seen that.

7 I wasn't assaulting anybody. I wasn't threatening
8 anybody. I wasn't brandishing a rifle. You've seen it in the
9 video. I was standing with highway patrol side by side.

10 On none of the video have you seen any evidence where
11 I have communicated with anybody involved in this case. You've
12 not seen a phone call with any of the Bundys or any of these
13 gentlemen, an e-mail, a text, an instant message. You've not
14 even seen me standing around them having a conversation,
15 because it didn't exist. I didn't enter into any conspiracy to
16 do any of these crimes here.

17 It's true, I was carrying a rifle that day. But as
18 Major Tom Jackson, who stood up there and testified, when I
19 asked him, "How come you don't arrest people that are openly
20 carrying weapons in your state?" He said, "Because they have a
21 right to carry guns." That's what he said. We have a right to
22 carry guns.

23 When it was over, I walked back to my truck, said
24 goodbye to the officers, they patted me on the back.
25 Sergeant Serena testified that I was helpful. He said it from

1 the stand, ladies and gentlemen, that I was helpful. What more
2 could I do not to be a threat? I was helpful.

3 You heard Major Tom Jackson with the highway patrol,
4 when I asked him, "Did it end peaceful?" He said, "Yeah, it
5 ended peaceful." And I like to think that I had a part in
6 that, helping it end peaceful.

7 I got back to the parking area and I took off my vest
8 and I put my rifle in my truck.

9 MR. MYHRE: Objection, Your Honor. Arguing facts not
10 in testified. Testifying.

11 THE COURT: Sustained.

12 PRO SE ENGEL: And when the BLM was leaving, you saw
13 a video of me. I was extremely upset. Extremely upset. They
14 had pointed rifles at me for over an hour.

15 MR. MYHRE: Objection, Your Honor. Again, facts not
16 in evidence.

17 THE COURT: Sustained.

18 PRO SE ENGEL: As I left, I joined with the crowd. I
19 don't know how many were out there, but we were all yelling and
20 screaming and cussing at them. Not one of my proudest moments.

21 Ladies and gentlemen, a conspiracy to commit offense
22 against the United States. They've not proven beyond a
23 reasonable doubt that I had an agreement with two or more
24 persons to commit one of these crimes. They've not proven that
25 I became a member of a conspiracy knowing of at least one of

1 its objects.

2 Cliven Bundy said, Cowboys, go get the cows. He
3 said, "Alls we got do is open up the gate and they'll be home,"
4 and we went to watch.

5 I didn't conspire to impede or injure an officer.

6 I didn't prevent by force, intimidation, or threats
7 federal law enforcement from discharging their duties in any
8 way, shape or form. I never talked to a BLM officer. Never
9 got close to a BLM officer. You saw me run away, run away when
10 I saw what was happening down there and I saw them pointing
11 weapons, and saying "court order" --

12 MR. MYHRE: Objection, Your Honor.

13 PRO SE ENGEL: -- you saw me run away.

14 MR. MYHRE: Objection, Your Honor. Move to strike
15 with respect to what he saw when he was on the bridge.

16 THE COURT: Sustained.

17 PRO SE ENGEL: Ladies and gentlemen, I didn't induce
18 by force, intimidation, or threats anybody. The evidence has
19 shown I stood with law enforcement, Nevada Highway Patrol to be
20 specific.

21 On Count Five, the Government's saying that I
22 forcibly assaulted a federal officer. The evidence shows I did
23 everything I could to make sure this thing ended peaceful. The
24 evidence shows I stood with Nevada Highway Patrol and tried to
25 ensure that.

1 This Count Six of 924(c). It's a crime of violence.
2 They've provided absolutely no evidence that I committed a
3 crime of violence.

4 And Count Eight, they say I intended to impede,
5 intimidate, or interfere with people. The evidence showed me
6 go down the freeway, stand there, take pictures. The evidence
7 showed me run the other direction when I saw what was
8 happening. They said "court order," they said "disperse," and
9 I did, and I went as far away as I could get. And law
10 enforcement pulled up on the scene and I asked for help.
11 That's what I did.

12 They say I obstructed the due administration of
13 justice. I influenced, obstructed, or impeded or tried to
14 influence, obstruct, or impede the due administration of
15 justice. It's just the opposite. The evidence has shown
16 exactly what I've stated. I tried to end this thing as
17 peacefully as possible with law enforcement that day. We've
18 all seen me pointing them, them pointing and them getting on
19 the phone on my behalf. On my behalf. I don't know what more
20 I could have done to make sure that ended peacefully.

21 They're saying that I interfered with interstate
22 commerce with extortion -- by extortion. I don't know. I
23 didn't cause the traffic jam; I got caught in it. Pulled over
24 to the side as the evidence has shown. You saw me pulled over
25 to the side and I got out of my truck. I didn't cause the

1 traffic jam. I didn't stop in the middle of the road, and the
2 evidence has shown that.

3 I didn't induce someone to part with property by
4 wrongful use or actual or threatened force, violence, or fear.
5 I didn't act with intent to obtain property. I didn't want any
6 cows. I'm not a cowboy or -- what am I going to do with cows?
7 I don't -- I'm not obtaining these cows.

8 Ladies and gentlemen, you saw me there in front of
9 the stage the next day. We stayed the night, slept on the hood
10 of my truck. The next day there was a rally and we were all
11 very upset still. I was very upset still, having guns pointed
12 at me. After that, the Government says I didn't go to
13 Mesquite. I laid by the pool. That's exactly what I did.

14 MR. MYHRE: Objection, Your Honor.

15 THE COURT: Sustained.

16 PRO SE ENGEL: Ladies and gentlemen, you've seen me
17 on camera, from almost the time I've been there. I was never
18 on camera at the stage. From the time I arrived at the parking
19 area you saw me get out of my truck on camera. You saw me
20 standing in the middle of the field on camera. You saw me go
21 down the freeway in a snapshot on camera. You saw me standing
22 over the wash taking pictures. That's in evidence. You saw me
23 run away. One of the -- one of the -- one of the witnesses
24 testified I was running, and you have seen it. You saw me work
25 with law enforcement, standing there, in front of their

1 vehicles. You saw them pat me on the back and you saw him
2 testify that I was helpful.

3 Ladies and gentlemen, I went there for a peaceful
4 protest and I made sure that it stayed that way. That's what I
5 did that day, and the evidence has shown it.

6 I ask you folks, when you deliberate, to please come
7 back with a not guilty verdict on all of these charges, because
8 I am not guilty of these things.

9 Thank you so much for your time and putting up with
10 me battling up here and making so many mistakes. I really
11 appreciate it. I've tried my best.

12 It's been an honor.

13 THE COURT: All right. We're going to take our
14 overnight break. We're going to try to start a little bit
15 earlier tomorrow. Instead of 8:30, with we're going to try to
16 start at 8:00. It still takes time to get everybody in the
17 courtroom, I know, but we're going to try to start at 8:00 and
18 plan for a shorter lunch tomorrow, so not a full one-hour
19 lunch. The jury has their lunch, but I do advise the attorneys
20 maybe bring a bag lunch or power bars or whatever you need to
21 just to have some snacking in between so that we can keep
22 things moving.

23 So, as to the jury, please remember that you are not
24 to discuss this case with anyone, not even with your fellow
25 jurors and if anyone should attempt to speak to you about the

1 case or if you inadvertently hear something about the case,
2 remember you are to let the Court know right away.

3 Also, you are not to read, or listen to, or view
4 anything that touches upon the case in any way nor attempt to
5 perform any research or any independent investigation about any
6 of the issues related to the case.

7 And do not form any opinion until after we have
8 finished with our closing arguments and then I will excuse you
9 to begin the deliberation process. So we're not there yet.

10 We thank you for your patience and we'll welcome you
11 back at 8:00 a.m. tomorrow morning.

12 Please stand for the jury.

13 (Jury excused from courtroom.)

14 THE COURT: All right. Off record.

15 COURTROOM ADMINISTRATOR: Off record.

16 (Recess was taken at 4:49 p.m.)

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18 --oOo--

19 COURT REPORTER'S CERTIFICATE

20 I, Heather K. Newman, Official Court Reporter, United
21 States District Court, District of Nevada, Las Vegas, Nevada,
22 do hereby certify that pursuant to Section 753, Title 28,
23 United States Code, the foregoing is a true, complete, and
24 correct transcript of the proceedings had in connection with
25 the above-entitled matter.

DATED: 5-21-2017

/s/ Heather K. Newman
Heather K. Newman, CCR #774
OFFICIAL FEDERAL REPORTER